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# INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

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## HEARINGS

BEFORE THE

### TEMPORARY NATIONAL ECONOMIC COMMITTEE CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

FIRST SESSION

PURSUANT TO

#### **Public Resolution No. 113**

**(Seventy-fifth Congress)**

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO  
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-  
TION WITH RESPECT TO THE CONCENTRATION OF  
ECONOMIC POWER IN, AND FINANCIAL CONTROL  
OVER, PRODUCTION AND DISTRIBUTION OF  
GOODS AND SERVICES

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PART 8-8

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#### LIQUOR INDUSTRY

---

MARCH 14, 15, 16, AND 17, 1939

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Printed for the use of the Temporary National Economic Committee



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(Created pursuant to Public Res. 113, 75th Cong.)

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# INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

AFTERNOON SESSION—TUESDAY, MARCH 14, 1939

UNITED STATES SENATE,  
TEMPORARY NATIONAL ECONOMIC COMMITTEE,  
*Washington, D. C.*

The committee met at 2:45 p. m., upon expiration of the noon recess, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Representatives Reece and Williams; Messrs. Ferguson; Davis; O'Connell; Lubin; Henderson; Berge; Thomas C. Blaisdell, Jr., representing Securities and Exchange Commission; Ernest Tupper, representing Department of Commerce; Milton Katz, representing Department of Justice.

Present also: Willis J. Ballinger, Director of Studies and Economic Adviser to the Federal Trade Commission; Phillip Buck, General Counsel; and John P. Brown, attorney, Federal Alcohol Administration.

The CHAIRMAN. The committee will please come to order. My apologies must again be presented to the members who have been delayed here and to others in attendance, but my presence on the floor of the Senate was necessary during the consideration of the Treasury and Post Office appropriation bill by reason of several amendments which I had to sponsor.

Mr. Ballinger, are you ready to proceed?

## PRESENTATION OF CONDITIONS IN THE LIQUOR INDUSTRY

Mr. BALLINGER. Yes, sir, Senator. We are presenting a study of monopoly and monopolistic conditions in the liquor industry in the United States. This study was prepared under the direction of the Federal Trade Commission with the assistance of Mr. Phillip Buck, Chief Counsel of the Federal Alcohol Administration. Mr. Buck will begin the proceedings with an opening statement and will then put on witnesses and cross-examine them in behalf of the Federal Trade Commission.

The CHAIRMAN. Perhaps it may be appropriate for me to add to what Mr. Ballinger has said that the word "monopoly" is frequently misunderstood. It may be used with a connotation of condemnation and it may be used without any such suggestion at all. I think it ought to be made clear that from the very beginning, when this committee was established, it has been the purpose and program of the committee not to imply any condemnation. We recognize the fact that many monopolies exist by reason, sometimes, of geographical conditions, by reason of public grant, and for other reasons too

numerous to mention. There are other monopolies which are built up through the use of practices which the common judgment of our people has condemned from the earliest times. But those who are summoned here to testify before this committee may come to the committee without any feeling whatsoever that they are being brought here for purposes of persecution, for that is certainly not the case.

This committee is interested primarily in developing facts. Now in developing those facts it may, of course, be that circumstances will be revealed from time to time which some persons will feel are worthy of condemnation; but if I were to make a comparison I should say that no business, no industry, in this country, needs fear the activities of this committee any more than a patient need fear going to a hospital.

Perhaps we are not as good doctors as they are in the hospitals, but we are trying to do the best we can.

Mr. Buck, the committee will be very glad to hear from you.

#### STATEMENT OF PHILLIP E. BUCK, GENERAL COUNSEL, FEDERAL ALCOHOL ADMINISTRATION, WASHINGTON, D. C.

Mr. BUCK. Mr. Chairman, gentlemen of the committee: It is not my purpose here to prove a case. I have tried to assemble economic data as they relate to this industry that might be of interest to this committee under the resolution of Congress.

This particular industry is unusually technical in its make-up, different from most industries. The product itself is what might be determined a technical product in that it is divided into many classifications, all of which are set up under Government regulations, and I believe for the benefit of the committee it may be well in the beginning of this hearing to define the classifications of whisky. I wish to say here for the record that this study does not deal with alcoholic beverages in general; it deals only with the whisky industry, as distinguished from the entire industry.

#### DEFINITION AND DESCRIPTION OF TYPES OF WHISKY

Mr. BUCK. "Whisky," as defined by the regulations of the Federal Alcohol Administration, is:

An alcoholic distillate from a fermented mash of grain distilled at less than 190° proof, in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, and withdrawn from the cistern room of the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof, and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed herein. Those types of whisky specified in subsections (a) through (j) below shall be deemed "American-type whiskies."

I am now reading from regulation 5 and the amendment to those regulations of the Federal Alcohol Administration.

Rye whisky, bourbon whisky, wheat whisky, malt whisky, or rye malt whisky is whisky which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51 percent rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, respectively, and, if produced on or after March 1, 1933, stored in charred new oak containers, and also includes mixtures of such whiskies where the mixture consists exclusively of whiskies of the same type.

Corn whisky is whisky which has been distilled at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, stored in un-



charred oak containers or re-used charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, and also includes mixtures of such whisky.

Straight whisky is an alcoholic distillate from a fermented mash of grain distilled at not exceeding 160° proof and withdrawn from the cistern room of the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof and is (1) aged for not less than 12 calendar months if bottled on or after July 1, 1936, and before July 1, 1937; or (2) aged for not less than 18 calendar months if bottled on or after July 1, 1937, and before July 1, 1938; or (3) aged for not less than 24 calendar months if bottled on or after July 1, 1938.

The term "straight whisky" also includes mixtures of straight whisky which, by reason of being homogeneous, are not subject to the rectification tax under the Internal Revenue Laws.

Straight wheat whisky is straight whisky distilled from a fermented mash of grain of which not less than 51 percent is wheat grain.

Straight malt whisky and straight rye malt whisky are straight whisky distilled from a fermented mash of grain of which not less than 51 percent of the grain is malted barley or malted rye, respectively.

Blended whisky (or whisky—a blend), is a mixture which contains at least 20 percent by volume of 100-proof straight whisky and, separately or in combination, whisky or neutral spirits, if such mixture at the time of bottling is not less than 80° proof.

Blended rye whisky (rye whisky—a blend), blended bourbon whisky (bourbon whisky—a blend), blended corn whisky (corn whisky—a blend), blended wheat whisky (wheat whisky—a blend), blended malt whisky (malt whisky—a blend) or blended rye malt whisky (rye malt whisky—a blend) is blended whisky which contains not less than 51 percent by volume of straight rye whisky, straight bourbon whisky, straight corn whisky, straight wheat whisky, straight malt whisky, or straight rye malt whisky, respectively.

Does the committee feel that this is important? I think it is because of the technical nature of the price structures.

The CHAIRMAN. It might probably be helpful if there is much more of that, if you put it in the record as part of your presentation.

Mr. BUCK. I am about half through with the standards of the product. I can put that in the record if the committee would prefer that to be done.

The CHAIRMAN. Well, we want to do what is desired by those who are presenting the hearing.

Mr. BUCK. Senator, I think it is important in order to understand the thing as it develops in the future.

The CHAIRMAN. You may proceed.

Mr. BUCK (continuing to read):

Spirit whisky is a mixture (1) of neutral spirits and not less than 5 percent, by volume of whisky, or (2) of neutral spirits and less than 20 percent by volume of straight whisky, but not less than 5 percent by volume of straight whisky, or of straight whisky and whisky, if the resulting product at the time of bottling be not less than 80° proof.

Those are types of American whisky.

The following are types of standard foreign whiskies:

Scotch whisky is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of Great Britain regulating the manufacture of Scotch whisky for consumption in Great Britain, and containing no distilled spirits less than 3 years old: *Provided*, That if in fact such product as so manufactured is a mixture of distilled spirits, such mixture is "Blended Scotch whisky" (Scotch whisky—a blend). Scotch whisky shall not be designated as straight.

Irish whisky is a distinctive product of Ireland, manufactured either in the Irish Free State or in Northern Ireland, in compliance with the laws of those respective territories regulating the manufacture of Irish whisky for consumption in such territories, and containing no distilled spirits less than 3 years old: *Provided*, That if in fact such product as so manufactured is a mixture of

distilled spirits, such whisky is "Blended Irish whisky" (Irish whisky—a blend). Irish whisky shall not be designated as straight.

**Canadian whisky.** Canadian whisky is a distinctive product of Canada, manufactured in Canada in compliance with the laws of the Dominion of Canada regulating the manufacture of whisky for consumption in Canada, and containing no distilled spirits less than 2 years old: *Provided*, That if in fact such product as so manufactured is a mixture of distilled spirits, such whisky is Blended Canadian whisky (Canadian whisky—a blend). Canadian whisky shall not be designated as straight.

**Blended Scotch type whisky** (Scotch type whisky—a blend) is a mixture made outside of Great Britain and composed of (1) not less than 20 percent by volume of 100° proof malt whisky or whiskies distilled in pot stills at not more than 160° proof, from a fermented mash of malted barley dried over peat fire, whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof, and (2) not more than 80 percent by volume of neutral spirits, or whisky distilled at more than 180° proof, whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof.

**Blended Irish type whisky** (Irish type whisky—a blend) is a product made outside Great Britain or the Irish Free State and composed of (1) a mixture of distilled spirits distilled in pot stills at not more than 171° proof, from a fermented mash of small cereal grains of which not less than 50 percent is dried malted barley, and unmalted barley, wheat, oats, or rye grains, whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof; or

(2) A mixture consisting of not less than 20 percent by volume of 100° proof malt whisky or whiskies distilled in pot stills at approximately 171° proof, from a fermented mash of dried malted barley, whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof; and

(3) Not more than 80 percent by volume of neutral spirits or whisky distilled at more than 180° proof, whether or not such proof is subsequently reduced prior to bottling to not less than 80° proof.

Those standards are the standards under which American whiskies are manufactured and sold to the American consumer in this country, and they also consist of the standards under which whisky is imported into the United States and admitted into our country for distribution in commerce.

As to the proposed economic data to be submitted at this hearing, I should like to make a preliminary statement in regard to the material which we propose to submit to the committee on the whisky-distilling industry and on certain aspects of the importing industry now being carried on in the United States. I, of course, am not here as a representative of the Federal Alcohol Administration, but rather as an assistant to the Trade Commission, and this committee, in studying the economics of the whisky-distilling and whisky-importing industry. The story does not involve enforcement or social or moral questions. Such a study would require much additional material. Our interest is in economic fact and behavior.

The purpose of this statement is to indicate the scope of the proposed inquiry and to portray the background of the testimony which is to be given by representatives of the industry.

At the very outset I wish to point out a striking characteristic of the liquor industries. Their history dates from December 5, 1933, when the twenty-first amendment to the Constitution became effective. Hence, we are dealing with a new industry, as distinguished from long-established industries with a consecutive history, such as steel, automobiles, cement, or glassware. This gives us, in one way, an incomparable advantage in the study of the liquor industry, and I may add that it is also in a measure a handicap, because of the lack of materials, because of the short life of the industry. We can see

almost at a glance the growth of the industry from its commencement in 1933 through to its extraordinary development in 1938. We can study the development of its price structure, of its merchandising methods, of its advertising activities, and the position of its leading units, with an ease not possible in the study of older industries.

This is an unequaled opportunity for economic study. The industry is large, touching both production and distribution in a highly integrated manner. Its rapid growth has compressed into a capsule an economic trend which might be recognizable in an older industry only after a study covering many years.

The prohibition interlude enables interesting comparison between new and old forms of industry. The price mechanisms involved cover the range of regulation and private control. The methods of distribution range equally wide.

I do not hope to present a complete picture. Questionnaires which were sent to the industry have not been completely analyzed, and many were not fully answered due to many causes. One was the lack of ability, apparently, of many of the larger companies to get complete answers. Certain gaps exist in our information which may be filled in only from testimony by the industry. We hope to round out the picture by a further report to the committee if that be the committee's pleasure.

#### LEGAL BACKGROUND OF THE INDUSTRY

Mr. BUCK. A survey of the legal background is essential if we are to follow the story. The distilling industry has a statutory background unlike any other industry. As far back as 1642 liquor became the subject of legislation when in that year Pennsylvania passed a law making it legal to sell alcoholic liquors to the Indians. The early colonial statutes were, of course, principally for revenue, or fell under the "blue law" classification. In 1790 the Congress for the first time took notice of liquor when it passed a law establishing a rum ration for the Army, and in 1791 levied a tax upon the sale of distilled liquors, which latter act, you will recall, brought on in Pennsylvania the Whisky Rebellion. Throughout the nineteenth century there was increased agitation to enable the States to handle their own liquor problems. In 1890 came the Wilson Act, which provided that all intoxicating liquors transported into any State or remaining therein for consumption, sale, or storage, were, upon arrival in such State, to be subject to the operation of State laws. This was followed, in 1913, by the Webb-Kenyon Act, which prohibited the shipment or transportation of intoxicating liquors into any State to be used therein in violation of the laws of such State.

You will recall that the constitutionality of the Webb-Kenyon Act was sustained by the Supreme Court in 1917 in the leading case of *Clark Distilling Co. v. Western Maryland Railway Company* (242 U. S. 311), in which the Court held that the purpose of the Webb-Kenyon Act was "to prevent the immunity characteristic of interstate commerce from being used to permit the receipt of such liquor through such commerce in States contrary to their laws, and thus in effect afford a means by subterfuge and indirection to set such laws at naught." And it was in the *Clark case* also that the Supreme Court

emphasized the unique position of liquor as the subject for congressional legislation, when it said:

In other words, the exceptional nature of the subject here regulated is the basis upon which the exceptional power exerted must rest.

In 1917 came the Reed bone-dry amendment which made it a crime to order, purchase, or cause intoxicating liquors to be transported in interstate commerce into any States whose laws prohibited the manufacture or sale of intoxicating liquors for beverage purposes.

Then on January 16, 1920, the eighteenth amendment became the law of the Nation and by it the manufacture, sale, or transportation of intoxicating liquors for beverage purposes was prohibited. We can pass rapidly over the prohibition era, 1919 to 1933. It is highly important to note that in those years powerful forces were at work whose effect is still felt upon the whisky industry today. By 1932 the appropriation for enforcement had reached a high of \$16,000,000, and the country was flooded with illicit liquor and in many respects dominated by bootleggers or their allies. Huge stocks of whisky manufactured by Canadian and Scotch distillers found their way into this country. Distribution systems were organized with all the skill and attention to detail of vast, modern commercial enterprises. All of this necessarily had its effect upon the new industry.

I may say that when the Federal Government first took upon itself, late in 1933, supervision of the alcoholic beverage industries through the Federal Alcohol Control Administration, set up under Executive order pursuant to the National Industrial Recovery Act, painstaking efforts were made to eliminate from the new industry those who had participated in the illegal production and sale of spirits. But the power at the disposal of the agency was inadequate to the task and undoubtedly a certain number of those persons entered the new industry.

Since the establishment of the Federal Alcohol Administration, under the act of Congress of August 29, 1935, to which I shall refer later on, the same policy has been followed. While that statute materially limited the discretion of the Administrator in passing upon applications for permits to engage in various phases of the industry, his powers have nevertheless been upheld by court decision. For example, in a case decided in the Fifth Circuit Court of Appeals in 1937 and which the Supreme Court refused to review a permit for the wholesaling of beer was denied to an applicant corporation on the ground that the corporation was a mask to cover a particular individual who had achieved a record for disregarding the law.

And finally, we come to the twenty-first amendment, which, as I mentioned before, became effective December 5, 1933. As you know, section 1 repeals the eighteenth amendment, and section 2 prohibits the transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof.

The twenty-first amendment modifies the Commerce Clause of the Constitution in its application to intoxicating liquors. In other words, any State may now enact legislation in respect to intoxicating liquors whether or not such legislation places a burden upon interstate commerce in liquor. For instance, a statute adopted in Cali-

for California soon after repeal requires an importer of beer produced outside the State to pay a special fee of \$500 for selling such beer in California. The constitutionality of this act was upheld in 1936 by the Supreme Court in the case of *State Board of Equalization of the State of California v. Young's Market Co.* (reported in 299 U. S. 51). This case has been followed by several others in the Supreme Court, with which you are no doubt familiar, all sustaining State laws which undoubtedly burden interstate commerce in liquor, some of which discriminate in favor of certain products to the exclusion of others, and are even frankly retaliatory in nature.

#### STATE SYSTEMS OF LIQUOR CONTROL

Mr. BUCK. The States, as you know, have set up different types of enforcement within their respective borders, and we have prepared a chart—I don't know whether the committee can see it to any advantage at that distance; it is in the prepared pamphlet before the committee.

(The chart referred to was marked "Exhibit No. 394" and is included in the appendix on p. 2675.)

Mr. BUCK. You will note from the chart that there are 15 States which maintain a monopoly over retail sales and one over wholesale sales.

The CHAIRMAN. It seems to me, Mr. Buck, that you might have referred to the one first in view of the circumstances that it is my own that maintains the wholesale monopoly.

Mr. BUCK. The sale of beer is now legal in every State of the Union. The sale of spirituous liquor is legal in all but 3 States. Of the 45 wet States—

Representative REECE (interposing). I see you have taken cognizance of Tennessee's repeal a few days ago.

Mr. BUCK. I had to remake the map, as a matter of fact, to accommodate the action of the Legislature of Tennessee.

The CHAIRMAN. I think that isn't the first time the map has had to be remade on account of what Tennessee does.

Mr. FERGUSON. Or North Carolina and Wyoming.

Mr. BUCK. North Carolina is a great State.

Mr. FERGUSON. What about Wyoming?

Mr. BUCK. Well, it is a great State, of course.

Each of the 45 wet States has a special statute covering the manufacture and sale of intoxicating beverages. That I might say, Mr. Chairman, is a good thing to keep foremost in our minds as we go along in a consideration of this study.

In some cases these follow the pattern of the Federal law, particularly in relation to such things as labeling, advertising, and fair-trade practices.

I might say there that is particularly true since the establishment of labeling provisions by the Federal Alcohol Administration. They have in a general way, I believe, been accepted by the States as more or less standard regulations for labeling of the product for consumers' benefit.

Now you can see that in addition to the 45 State statutes regulating the distribution of this product you have to deal also with certain

regulations of the Federal Government. There are very few duplications in the matter of regulation, however.

A statement on the statutory background of the industry would not be complete without reference to the Federal Alcohol Administration Act and of the agency set up thereunder.

#### THE FEDERAL ALCOHOL ADMINISTRATION ACT

Mr. BUCK. Following the decision of the Supreme Court in the *Schechter* case in May 1935 and the resulting collapse of organizations deriving authority from the National Industrial Recovery Act, you will recall that Congress passed the Federal Alcohol Administration Act. The act became effective August 29, 1935. Let me mention briefly the essential provisions of the act. In the first place, the act is described in its preamble as one to regulate interstate and foreign commerce, to protect the revenue and to enforce the postal laws, all with respect to distilled spirits, wines, and malt beverages. It creates a Federal Alcohol Administration headed by an Administrator who is charged with carrying out the provisions of the act. Permits are required and the Administrator is authorized to issue permits to engage in the business of importing distilled spirits, wine, or malt beverages; distilling, rectifying, or blending distilled spirits, or producing wine; and wholesaling distilled spirits, wine, or malt beverages. You will notice that the brewers are not included in the permit system. I have a statement in my prepared report that no doubt they should be. I think that is a matter of opinion.

The Administrator is also charged with the enforcement of section 5 of the act, which relates to unfair competition and unlawful practices; he is likewise responsible for labeling and advertising under definite standards prescribed by the act. He must see to it that sales of whisky in bulk, that is, otherwise than in bottles, are not made except under specified narrow limits. And he must supervise all applications which involve interlocking directorates among companies which might be in competition. The act was amended on June 26, 1936, by the addition of a further title which abolished the Federal Alcohol Administration as a division of the Treasury Department and established an independent three-man board or commission. This new provision, however, was to take effect upon the appointment of a majority of the members of the board, and thus far has not become effective.

Mr. BUCK. The Federal Alcohol Administration is a comparatively small agency. With a total personnel in the neighborhood of 160, and an appropriation of but \$450,000 for 1938, it must deal with supervision of the liquor industry all over the United States. Indeed its field force comprises a mere corporal's guard of 21 men, less than half a man per State, which is obviously inadequate.

In dealing with the importing of whisky, we must keep in mind that whisky is made principally in two countries, the United States and Great Britain. May I add there the Irish Free State which wasn't included. The laws of Great Britain, such as the Finance Act of 1933 and the Merchandise Marks Act, should be studied in connection with this statement in order that we may more thoroughly understand the background. As this committee well knows, England

maintains a policy entirely different from ours in respect to monopolies and trusts.

Most whisky manufactured for export from Scotland, which constitutes a large percentage of imports into the United States, is controlled by Distillers Co., Ltd., commonly known to the trade as D. C. L., and it controls predominant interests in companies producing most of the Scotch whisky. This unified control at the source of production manifests itself here in our commerce through what are called sole-agency contracts for well-known and well-advertised brands of Scotch whisky. These exclusive-brand agencies, in turn, are implemented by American importers through franchise, or agency agreements, to wholesalers and by resale-price maintenance contracts, under the various State laws and the Miller-Tydings Federal law, carrying the control right down to the consumer.

Just for the purpose of keeping the record in order for students of the subject who may desire to study it, I might say there is additional source material to be found in the report of the British Royal Commission of 1909, which was a study set up in Great Britain, I think, in 1909, to study the whisky conditions and the conditions of manufacture and what is whisky in Great Britain under their laws. There is also some source material to be found in the opinions of reports of the Attorney General of the United States about 1909, where you will find what is commonly known to the trade as the Taft report. This question involved what is whisky under the old trade, and the matter has been transferred around apparently from one Attorney General to another, from Bonaparte's time down to two or three administrations until finally it landed on the desk of President Taft, apparently, and he settled the matter by writing what is known as the Taft report, defining whisky. It is simply interesting material to anyone who wishes to pursue the record.

The CHAIRMAN. I assume it will be your desire to present these charts for printing in the record in order that the testimony may be clarified.

Mr. BUCK. That is right.

The CHAIRMAN. Let it be understood, then, that the charts will be admitted to the record without any further requests.

Mr. BUCK. Now, Senator, in presenting these charts, which have been carefully, as carefully prepared as possible, from as reliable a source as it is possible to obtain, in my opinion, I still want to say that as in the case of most statistics when dealt with in a general way, I do not want to represent them as being exactly accurate. They are approximately accurate, and as accurate as general statistics, in my opinion, can be.

The CHAIRMAN. They have been carefully prepared from the material which has been diligently gathered by the Federal Alcohol Administration and the Federal Trade Commission.

Mr. BUCK. That is the case.

The CHAIRMAN. And not particularly gathered for the purpose of proving a particular case, but for the purpose of showing the facts as they exist.

Mr. BUCK. That is the point, exactly. The whole study, in fact, has been prepared with that view.

## PRODUCTION OF WHISKY IN THE UNITED STATES FOR YEARS 1933-1938

Mr. BUCK. The first chart I think we should consider is a chart which shows the production of whisky in the United States from 1933 to 1938.

(The chart referred to was marked "Exhibit No. 395" and is included in the appendix on p. 2676.)

Mr. BUCK. Keeping in mind that the twenty-first amendment became effective December 5, 1933, you will observe that we started off with 1933 with 17,000,000 gallons on hand, approximately. The 1932 figure is 1,710,000, but that was before repeal of the eighteenth amendment.

In 1934 the production stepped up to 108,000,000; in 1935 production progressed further to 184,860,000. In 1936 apparently we reached the peak of production in whisky in the United States, and I might say I think it is a banner year for all time, the highest in the history of the Government so far as I can find out, and that figure was 245,470,000 gallons.

The CHAIRMAN. Do you wish to say the banner year or the peak year?

Mr. BUCK. Peak year, I suppose, would be more appropriate.

Production began to drop off perceptibly after 1936. The reasons the committee might gather from the facts as they are presented hereafter. I have my own opinions, but I take it the committee is not particularly interested in those.

The CHAIRMAN. You will develop testimony on that point?

Mr. BUCK. Yes, sir; I shall try to do so.

Beginning with 1936 the distillery production began to drop off, and it dropped from 245,470,000 in 1936 to 155,670,000 in 1937, which is a considerable drop, and the downward trend in production continued even to last year, 1938, when it dropped to 94,990,000, which you will see is less than in 1934.

Mr. DAVIS. Gallons?

Mr. BUCK. Yes; that is in tax gallons.

Those statistics are basically interesting in considering the development of the industry from the date of repeal of the eighteenth amendment. They picture that particular angle of it, I think, very accurately.

The CHAIRMAN. Are we to assume that consumption also declined with production?

Mr. BUCK. The next chart, Senator, will give you an indication of that.

## STOCKS OF WHISKY IN BONDED WAREHOUSES FOR YEARS 1933-1938

Mr. BUCK. The next chart indicates the stocks of whisky in bonded warehouses for the years designated there, beginning with 25,100,000, running up to the peak now, and I think that is an all-time peak for the history of the country, which shows total stocks on hand to be 466,800,000 gallons of whisky in the United States.

(The chart referred to was marked "Exhibit No. 396" and is included in the appendix on p. 2676.)

Mr. BUCK. The principal value of that chart, as I see it, is that it shows the reserve whiskies on hand in the United States as being 466,800,000 gallons.



The CHAIRMAN. Would the conclusion be justified from these two charts that the consumption has not actually kept pace with production?

Mr. BUCK. Oh, very definitely so, very definitely so. You see, that 466,800,000 practically represents a surplus over consumption for a period of 5 years. That is the practical indication.

Mr. DAVIS. In other words, for the last 3 years the consumption has averaged around 70,000,000 gallons, has it not?

Mr. BUCK. I beg your pardon?

Mr. DAVIS. I say for the last several years the consumption in the United States has averaged in round numbers about 70,000,000 gallons.

Mr. BUCK. I think that is a good approximate figure, although the next chart, I believe, will give you the actual figure.

Mr. DAVIS. But just in line with the question of the chairman, the amount in the warehouse of 466,000,000 gallons would be approximately six times the annual consumption.

Mr. BALLINGER. Senator, these charts are very important when we come to consider the effect of this very large reserve supply of liquor upon the price structure.

Mr. BUCK. Judge Davis, I think your statement is about the picture.

#### WHISKY WITHDRAWN TAX-PAID FROM BONDED WAREHOUSES.

Mr. BUCK. The next chart shows the withdrawal of whisky from bonded warehouses in the periods indicated, and that is the best indication of consumption that I know of. I may be wrong on that, but that is my opinion, that withdrawal from bonded warehouse is about the best indication of consumption. Of course you have always got to keep in mind floor stocks on hand, in commerce, and in trade.

(The chart was marked "Exhibit No. 397" and is included in the appendix on p. 2677.)

Mr. BUCK. The peak withdrawal year was 1936. The withdrawals there, Judge Davis, were 72,473,000 gallons, which is approximately the same figure that you mentioned, 70,000,000.

We began in 1933—you remember we had only 1 month to go in 1933, that was December of that year when repeal came—by withdrawing 6,115,000 gallons. In 1934 which was a clear year so far as Federal law was concerned but may have been under some handicap so to speak in respect to State laws, some of the States may not have gone wet in that period, I don't know offhand—38,000,000 gallons was the withdrawal for that year. In '35 it ran up to 61,873,000. In 1936, apparently it reached its peak of 72,473,000 gallons. In 1937 it dropped off a little over 2,000,000 gallons, and in '38 it dropped off approximately a million gallons again.

The point there may be whether or not imported whiskies have increased during the same period that domestic whisky consumption has dropped off. These charts deal only with domestic whiskies.

Representative REECE. But the withdrawals there appear to be rather uniform during recent years after the States had opportunity to adjust their laws after repeal of the Federal law.

Mr. BUCK. Yes; they are fairly uniform. There is a difference of only a little more than 3,000,000 as between '36 and '38.

Representative REECE. Which is a very small percentage.

Mr. BUCK. Which is a small percentage. The total imports, I think, will show up to be approximately 14,000,000 gallons a year as their high, and they have increased from year to year.

The highest preprohibition withdrawal might be interesting, shown by the figures on the bottom of the chart to be for 1917, and I assume that that peak in withdrawals for that year was due to the fact that prohibition signs were gathering in the skies and some people were fixing up their cellars for a long siege. I don't know, of course. It shows 1917 as being the highest preprohibition withdrawal year, 83,591,000 gallons. That is higher than any of the years so far, and that also poses a question that seems to flunk many experts in trade, as to why it is that withdrawals for consumption since the repeal of the eighteenth amendment are less than they were at least for that year, in preprohibition times. The population of the country, of course, has increased considerably in the last 18 years, and I have heard it said, I don't know, that even ladies drink liquor now that didn't drink before, and all that sort of thing, but even with the increase in population for the country and what is generally assumed to be an increase in the number of people who drink liquor, we apparently still are not consuming as much whisky as we were before prohibition.

The average, however, for preprohibition, the average from 1901 to 1919, is less than the present consumption, so those figures are set out there for whatever value they may be to the committee in studying the statistics.

The CHAIRMAN. On what do you base your statement that the consumption now with the increased population is less than it was?

Mr. BUCK. I base it on the high year of 1917, of 83,591,000 gallons.

The CHAIRMAN. But you explained that figure upon the supposition that it may have been due to preparation for prohibition.

Mr. BUCK. I have offered a possible explanation; I have just set that forth.

The CHAIRMAN. But don't you think that was really a very sound explanation?

Mr. BUCK. That is my private opinion, Senator, and I call your attention to that portion in the statistics because there is considerable talk in the industry generally and by the public to the effect that we are not consuming as much whisky now as we were before prohibition.

The CHAIRMAN. Well, it will be observed from your chart that in 1935 there was withdrawn an amount of whisky in excess of the average for the entire period of 1901 and 1919.

Mr. BUCK. Slightly; yes.

The CHAIRMAN. So it would seem to me that the conclusion which you drew from the chart was scarcely justified. I think a better conclusion would be based upon the average withdrawals for the preprohibition period than upon the withdrawals for a single year.

Mr. BUCK. I don't know, Senator, I suppose there are some experts here on figures; I am not much at figures. But what is the average between 1934, for instance, and 1938? That would give you a better indication or better answer to your question, I think.

Mr. DAVIS. Would it be proper to say in 1934? We had hardly had time to manufacture a great deal of whisky from the passage of

the twenty-first amendment up to that time, and what whisky had been manufactured then was new green whisky?

Mr. BUCK. Judge, I don't know whether the fact that it was green whisky retarded consumption or not. I wouldn't know.

The CHAIRMAN. Well, when we bear in mind the fact that Congressman Reece has testified this afternoon that Tennessee only recently repealed the State prohibition law, I think we will see the explanation for the low consumption in 1934. [Laughter.]

Mr. BUCK. I think that is about right.

Representative REECE. Has it been advanced at any time as a possible explanation for the decrease in consumption since repeal that the effects are less than they might have been during prohibition?

Mr. BUCK. My experience is that the population generally doesn't learn much from experience.

Senator, the price of whisky might have some point there. I don't know. It is there, I mean the figures are there. Of course, the price of whisky now is much higher than it was before prohibition, and the price of all whiskies I think is higher. Too, you know we have had a depression, someone told me, and a lot of people maybe can't buy whisky.

Representative WILLIAMS. Would the consumption of illicit whisky have anything to do with it?

Mr. BUCK. That is a question I can't answer. I would say that how much illicit whisky, that is, non-tax-paid whisky, is consumed is more or less a matter of personal opinion. Those are statistics of which I don't know the accuracy. It is about as indefinite as my old friend Judge Perkins once said, as indefinite as a school of mullet in the middle of the Atlantic Ocean. You can't tell. I don't think anyone can tell definitely what amount of un-tax-paid whisky is consumed. There are, however, some very respectable figures on the subject. We have some collection of those figures and would be glad to submit them if they are of interest.

Representative WILLIAMS. Would it be fair to assume that there is considerably more since prohibition repeal than there was before we had prohibition?

Mr. BUCK. That I wouldn't be able to answer. I am sorry, but I just wouldn't have anything that would be dependable on that.

I might say that the reports of the Treasury Department proper show the destruction of considerable production by the Alcohol Tax Unit in this respect. That is, they have destroyed a tremendous number of illicit distilleries through the operation of the Alcohol Tax Bureau. That number I am not exactly sure of.

I have here now a more definite statement on that which shows according to this report that there were approximately 16,000 stills—16,142—destroyed by or captured by the Alcohol Tax Unit for the year 1937. That, of course, may account for a considerable amount of un-tax-paid whisky.

Bootleg whisky: That is a confusion of terms to me, because it may mean whisky that is tax paid; I mean there is such a thing as bootleg tax-paid whisky—that is, whisky that is bootlegged, for instance, in Tennessee before legalization. It may be tax-paid whisky.

The CHAIRMAN. Perhaps we had better stop talking about Tennessee. [Laughter.]

Representative REECE. However, we were not entirely dependent on outside sources. [Laughter.]

Mr. BUCK. I am glad to see that someone recognizes home industry. Now, this chart may be of interest to the committee.

#### LIQUOR PRODUCTION EXCEEDING CONSUMPTION

Mr. BUCK. This exhibit, as you will see, purports to show the number of distilleries engaged in the business for the years indicated together with the annual capacity of those production units, and also proposes to show the annual production. This chart is based on fiscal years, whereas the previous charts, Senator, were based on calendar years. I couldn't account for the discrepancies involved here.

(The exhibit referred to was marked "Exhibit No. 398" and is included in the appendix on p. 2677.)

In 1933 it shows 7 distilleries in operation; in 1934 it shows 44; in 1935, 79; in 1936, 112; in 1937, 126, and in 1938, 108. You will notice considerable dropping off there in the number of distilleries from 1937 to 1938.

The CHAIRMAN. Now this chart taken in connection with your previous charts upon production and warehouse stocks indicates rather clearly that the capacity to produce has been steadily increasing.

Mr. BUCK. That is right.

The CHAIRMAN. While the production increased for a time and is now being cut down.

Mr. BUCK. That is right.

The CHAIRMAN. So that here again you appear to have presented a condition which exists in so many industries of a larger production of the commodity than is actually consumed.

Mr. BUCK. That is right.

The CHAIRMAN. So that the question of maintaining the price arises in this industry just as it arises in the farm industry, for example, with respect to wheat.

Mr. BUCK. I think the general rule would apply on that point.

Mr. DAVIS. Mr. Chairman, of course you have in this industry the importance of aging whisky. I think there is a general effort to get enough whisky in stock that they can sell whisky 4 years old or more, on the whole. Whisky is one of the few things that improves with age. In the case of farm products generally, and manufactured articles, the reverse is true, but a surplus in the whisky business is not such a liability as it is with regard to many other products.

The CHAIRMAN. Well, Judge, the committee is very glad of course to hear from another Tennessee expert.

Representative REECE. Referring again to the chart that you had on display a few moments ago—it is not necessary to exhibit it again—the chart showed some 460,000,000 gallons in bonded warehouses.<sup>1</sup>

Mr. BUCK. Stocks on hand; yes.

Representative REECE. Is all of that whisky 4 years old?

<sup>1</sup> "Exhibit No. 396," appendix, p. 2676.

Mr. BUCK. Oh no, no. I have a further chart on that that shows what proportion is 4 years old.

In "Exhibit No. 398" the principal value perhaps to the committee, as Senator O'Mahoney said, is that it shows the tremendous production possibility of the industry as it now stands. It seems as though everyone tried to produce as much whisky the first 2 or 3 or 4 years as they could. It was sort of a race to get surplus stock to age, the idea being that the whisky could age, and in doing that they have established in the industry an annual capacity of 434,986,000 gallons, whereas the necessity, according to consumer demands, would be approximately 70,000,000 gallons.

Mr. KATZ. Mr. Buck, is a license from the Alcohol Administration necessary before a distillery may be built?

Mr. BUCK. That's right; before it may be operated.

Mr. KATZ. Well, in passing upon an application for a license, do the statutory standards require the administration to take account of the relationship between capacity and current demand?

Mr. BUCK. No.

Mr. KATZ. What sort of standards are laid down in the statute?

Mr. BUCK. The standards are more or less those, you might say, that pertain to social questions, that is whether or not the man has been previously convicted of crime and whether his trade connections are such as that he will likely comply with the law in the manufacture of whisky, and things of that sort. The Alcohol Administration has no authority in the issuance of permits to restrict or to allocate production. It may be that in the early days—I am not quite clear under the codes that were set up under the N. R. A. whether that condition prevailed or not, I am inclined to believe it may have prevailed at that time.

You will observe, also, from this chart the fact that whereas we have now 108 distilleries with a production capacity of 434,000,000-odd gallons, in 1914 we had 352 distilleries with a production we don't know. We don't know what the potential possibilities of the distilleries were before prohibition, but we know that they did produce 88,000,000 gallons annually.

Representative WILLIAMS. Has the Administration the right under the law to revoke one of these permits?

Mr. BUCK. Yes, sir.

Representative WILLIAMS. Has that been done?

Mr. BUCK. Oh, yes; in a number of cases.

Representative WILLIAMS. Does that account for the reduction of the number there in 1938?

Mr. BUCK. No; not in this chart. The Administration has revoked numbers of permits, some for nonuse. The statute provides that if a permit isn't exercised for a period of 2 years it may be revoked and then it may be revoked in addition after violating the other provisions of the statute relating to labor or trade practices under the statute. It wouldn't show here because this chart is based upon distilleries in operation, annual capacity and production. I don't think it would show up there, and I am sure that doesn't account for it, because enough distilleries of any consequence have not been put out of business to make any appreciable dent in that situation.

As I say, it might be significant to notice that in 1914 we had 352 distilleries in operation, according to our information, whereas in 1938 we have 108 distilleries. We have less than one-third the number of distilleries now that we had in the old days.

Mr. BALLINGER. Mr. Buck, were any distilleries bought up by the large companies and closed down?

Mr. BUCK. During what period?

Mr. BALLINGER. This period where it drops from 126 to 108.

Mr. BUCK. Well, I would say to no appreciable extent. Certain stocks of whisky have been bought by the large concerns, but the distilleries haven't changed hands to any appreciable extent. They may switch them around from one subsidiary corporation to another, but very few change in management. That is my information on the subject.

Still, I say we have apparently one-third of the distilleries, less than a third as many distilleries now as we had in 1914.

Mr. DAVIS. Mr. Buck, in giving the number of distilleries operated, you have it in 1938 as 108. Do you mean by that there are that many companies operating distilleries or that many physical distilleries in operation?

Mr. BUCK. I mean by that that those are physical distilleries.

Mr. DAVIS. Have you any figures or information as to how many of those distilleries are owned, two or more, by an individual company?

Mr. BUCK. Yes, Judge; I think we have that on the next chart.

Again, you can see that for 1914 we were producing in excess of 88,000,000 gallons of whisky a year, whereas in 1936 I think we produced 245,470,000. That comparison may be of some interest as we go along with this matter.

Representative WILLIAMS. But it appears that the still per unit produces about seven times as much as the old one. Is that right?

Mr. BUCK. I think that is about right; yes, sir. I account for that in my own way by the fact that the whisky industry now is in the hands of large companies and great progress has been made in distilling apparatus, as always follows the integration of commercial needs, and the large companies have developed, or other people developed for them, new distilling apparatuses that are much larger—mass production, you might say, as compared with single production before.

Mr. DAVIS. In connection with this question of acquirement, you may be intending to go into it later, and if you are I don't want to interject the question at this time; but I should like to inquire whether you contemplate making any explanation of the buying up by the major companies of old whisky brands which during the past have contained more or less reputation and goodwill.

Mr. BUCK. Judge Davis, that is a question that I couldn't ascertain from statistics or history—I could from history, I know the change of hands, of course, of old brands in the industry; but I think it is one of the points that ought to be discussed when we bring the witnesses on for examination. I think that would be the appropriate and best place to develop that point.

Representative REECE. May I ask a question, if you please? Do you intend to make a study, or have you made a study, to find out the

reason for the falling-off of the number of distilleries since 1937, with a view of ascertaining to what extent they may have been bought up by other larger distilleries and sold by the purchaser?

Mr. BUCK. I am afraid that we haven't the answer to that, Congressman.

Representative REECE. That may be developed later.

Mr. BUCK. It may be developed by witnesses in the hearing.

Mr. DAVIS. In that connection I wish to call attention to the fact as shown by the figures on the chart, that while the number of distilleries operated in 1937 dropped from 126 to 108 in 1938, yet the annual capacity only dropped from 435,814,000 gallons to 434,986,000, or a relatively small reduction in capacity, not at all comparable to the reduction in numerical distilleries operated.

Mr. BUCK. That, Judge, would indicate to me that the distilleries' capacity has remained approximately the same, and I might also say that this chart relates to distilleries in operation. It doesn't necessarily mean that the distillery has been destroyed or even changed hands. It may mean that, as the figures indicated on the previous chart, they have been closed for the purposes of preventing a larger accumulation of stocks. They may have been closed and remained in status quo.

The CHAIRMAN. You may proceed.

Mr. BUCK. Just for the sake of comparative figures, we undertake to show, in an approximate way, the relation of four of the largest units in the industry to the whole structure, and the chart we introduce now is of interest because it does compare in an approximate way, as I have said, the four-company position as against the entire industry in respect to distilleries operated and whisky produced.

(The chart referred to was marked "Exhibit No. 399" and is included in the appendix on p. 2678.)

The CHAIRMAN. You are now referring to the chart showing the amount of whisky produced by the four major companies as compared with the entire industry?

Mr. BUCK. Yes, sir; the entire industry, you see—this is on the calendar year for 1938—had 97 distilleries in operation. Four companies operated 20 of those 97 distilleries. That figure may not appear so important until you consider the production. The entire industry for 1938, for instance, produced 94,990,000 gallons. The 4 companies produced 60,400,000 gallons of that total. That gives you an idea of how large in production capacity the 20 held by the 4 companies may be as contrasted against 77 for the entire industry. Twenty held by the four large companies produced approximately two-thirds of the total for the year 1938, and, of course, for the year 1936 the percentage is much higher. It is 111 as against 245.

Mr. BALLINGER. That is all whisky, isn't it, Mr. Buck?

Mr. BUCK. Everything I am showing you is whisky.

Mr. BALLINGER. There is a higher concentration in the 4-year-old whisky?

Mr. BUCK. That is to be brought out in its regular order as we progress.

The third break-down on this chart shows the entire industry as an average per distillery. The entire average for the entire industry, per distillery, is 979,000 gallons production. The four companies

average per distillery is 3,020,000 as against 979,000 for the entire industry average per distillery. That gives you an idea of the difference in size and capacity of the distilleries held by the large companies as against the general average size and capacity of the distilleries in the trade.

That is about all, I think.

Mr. O'CONNELL. When you speak of the 4 companies and the 25 distilleries owned by the 4 companies, does that figure include, or is it intended to include, all companies affiliated with or controlled by the large companies?

Mr. BUCK. My information is that that number, 20 units, includes all subsidiaries held by the main 4 big corporations. That is the position. Most of the subsidiaries, I might say, are wholly owned.

Mr. BALLINGER. What are the names of the four large companies?

Mr. BUCK. They appear on the chart: Schenley Distillers Corporation; National Distillers Products Corporation; Joseph E. Seagram & Sons, Inc.; and Hiram Walker & Sons, Inc.

My investigation is to the effect that they constitute the four largest in the industry when taken together with their subsidiaries.

#### PRODUCTION BY FOUR LARGEST UNITS COMPARED WITH TOTAL PRODUCTION

Mr. BUCK. The next chart shows the total production of whisky in the United States for the years 1933 to 1938 inclusive, and the percent of total production by four corporations for each year except 1933. I have taken that off.

Mr. FERGUSON. These are the same four companies?

Mr. BUCK. The same companies. The four largest units, as I say, in my opinion, in the industry for 1934, produced 60 percent of all the whisky. In 1935 they produced 46 percent, although they apparently produced more whisky than they did in 1934, but less in proportion to the total.

In 1936 the four companies produced 45 percent and still produced more whisky than they did in 1935. Now that was the peak year, as we saw by the total production charts heretofore submitted.

(The chart was marked "Exhibit No. 400" and is included in the appendix on p. 2679.)

Mr. BUCK. Something happened in the industry. What it was—it may have been good sense—I don't know. But anyway it appeared to be the purpose of the industry beginning with 1936 to retard production over their previous years and the total production dropped from 245,000,000 to 155,000,000, and the four companies produced 47 percent of that total.

In 1938 the total production experienced a more radical decline from 1936. It dropped from 245 high in 1936 to 94 low in 1938. In that year, however, the 4 companies produced 64 percent of all the whisky.

Mr. BALLINGER. Mr. Buck, between 1937 and 1938 did the large companies purchase many competitors?

Mr. BUCK. 1936 and 1938?

Mr. BALLINGER. 1937 and 1938.

Mr. BUCK. As I have said before, I don't know offhand about the purchase of competitors.



Mr. BALLINGER. Or acquire control by merger, combination, or anything else?

Mr. BUCK. That is a matter I think we will have to develop with the witnesses as we go along in the hearing.

As I said before about the other charts, it may have been a laying by of production capacity, instead of an acquisition.

Mr. FURGESON. Mr. Buck, when you speak of production you mean the new whisky that is produced by the distillery, without reference to the 4-year?

Mr. BUCK. Yes; that is per year production. It is all each year's new whisky.

Dr. LUBIN. Mr. Buck, I am very much interested in your exhibit 3A,<sup>1</sup> which apparently shows the greatest decline in production occurred in the distilleries that were owned by the so-called smaller companies; in other words, the relative drop in the black section of your bars is much smaller than the drop of the cross-hatched section. I noticed in your chart 5A,<sup>2</sup> which you showed a few minutes ago, that the same was true in regard to the number of distilleries in operation, that whereas the 4 companies had 18 distilleries in 1936 and 20 in 1937 and 20 in 1938, your smaller companies declined in number from 129 in 1937 to 97 in 1938. Does that mean, then, that the actual cutting down in production took place for the most part in those distilleries—

Mr. BUCK (interposing). In the smaller distilleries.

Dr. LUBIN. That were independent of these four companies.

Mr. BUCK. That would be the conclusion that I would draw from those figures; Dr. Lubin.

The CHAIRMAN. You may proceed.

AMOUNT OF WHISKY HELD IN BONDED WAREHOUSES BY FOUR LARGE COMPANIES IN COMPARISON WITH WHOLE INDUSTRY'S STOCKS

Mr. BUCK. The chart entitled "Stocks of Whisky in Bonded Warehouses Held by Four Companies Compared to Total Stocks" which I promised I wouldn't mention but can't help but mention, shows the amount of stocks of whisky in bonded warehouses held by the four large units in the industry from 1933 to 1938, inclusive, as compared with the total of all whisky stocks in bonded warehouses.

(The chart referred to was marked "Exhibit No. 401" and is included in the appendix on p. 2680.)

Mr. BUCK. The percentage, of course, runs from high in 1933. As I said before, we had only 1 month of operation for that year—a high of 71 percent of total over-all control by 4 companies in stocks. In 1934 there was 60-percent control; in 1935, 55 percent; in 1936, 48 percent; in 1937, 52 percent; and in 1938, 54 percent. So you see, notwithstanding the sloughing off in over-all production as shown by the previous charts, the four companies have developed continuously in their percentage control of the whole stock. In 1936 the production was the high year, and in 1937 the production was way down, yet the percentage increased in the hands of all 4 in the whole of the stocks. The same thing is true in 1938. While production had radically de-

<sup>1</sup> "Exhibit No. 400," appendix, p. 2679.

<sup>2</sup> "Exhibit No. 399," appendix, p. 2678.

clined in 1938—the over-all production in the industry had radically declined in 1938—still the percentage of the 4 companies in the total whiskies on hand had increased.

Mr. TUPPER. Mr. Buck, I assume that these stocks may be acquired by purchase from other manufacturers?

Mr. BUCK. Stocks of whisky?

Mr. TUPPER. Yes..

Mr. BUCK. There is no doubt but what they may be acquired by purchase as well as manufacture, and oftentimes are acquired, of course, by purchase. I might say there, in further explaining the mechanics of the industry, that there is a class of business in the industry known as rectifiers, as distinguished from distillers. This deals with distillers. A rectifier is a man who buys whisky, as a rule; sometimes he produces his own. But as a general rule I think they purchase whisky in the market and blend it or mix it and put it out in that way. So your question as to whether or not stocks may be acquired by purchase as well as production is, of course, correct.

The CHAIRMAN. The percentage of stocks owned by the 4 large companies does not appear to vary greatly after 1934, does it? It is 55 percent for 1935, 48 percent for 1936, 52 percent for 1937, and 54 percent for 1938.

Mr. BUCK. That is in the percentage, Senator, of stocks on hand; but my point is there that 1937 and 1938 were declining years in production, yet it had no effect at all on their percentage in the whole stocks. In fact, their percentage in the whole stocks developed, notwithstanding the radical decline in the production of those years.

The CHAIRMAN. Well, if the large companies were reducing their production, it might also be presumed that they were reducing their withdrawals from the warehouses.

Mr. BUCK. That isn't the fact.

The CHAIRMAN. It is not?

Mr. BUCK. No; they were increasing their withdrawals. The business of the large companies was increasing each year tremendously.

Mr. O'CONNELL. May I ask a question, Mr. Chairman, on the percentages that are shown of stocks held in bonded warehouses by the four companies? Is that necessarily accurate as to the percentage of whiskys owned by the four companies, or is it taken from records that indicate the persons to whom warehouse-receipts stocks have been given?

Mr. BUCK. It is my opinion that the large companies perhaps don't acquire very many gallons of whisky by the purchase of warehouse receipts. That trade is usually indulged in, as I say, by the rectifiers. Of course, there are instances where the large companies may buy warehouse receipts, but that is a negligible factor.

Mr. O'CONNELL. I didn't intend to indicate I thought they did, but are the percentages taken from warehouse-receipts ownership?

Mr. BUCK. No.

Mr. O'CONNELL. I mean how did you arrive at the percentages?

Mr. BUCK. They are based on production; the company reports on what they sold.

Mr. BALLINGER. What is your explanation of how they increase their control over the reserve supply, the four companies?

Mr. BUCK. What is my explanation?

Mr. BALLINGER. Yes.

Mr. BUCK. One explanation is that they have, of course, tremendous producing facilities. That is one explanation. The other is that apparently they did not quit producing when the general run of distilleries began to quit producing in 1936, or to restrict their production.

The CHAIRMAN. It is true, is it not, that "Exhibit No. 400" shows that in 1938 the four companies produced 64 percent of the total production for that year?

Mr. BUCK. That is right.

The CHAIRMAN. And that probably would be one important explanation of the situation?

Mr. BUCK. Yes. At this point it might be of interest to the committee to discuss the importance of age in whisky, as Judge Davis has already indicated; and I won't attempt to match my knowledge of quality of whisky with Judge Davis, of course, because I come from Maryland.

The CHAIRMAN. We are not going to test the qualifications of the committee members at this time.

Mr. DAVIS. We have no material with which to make any tests, unfortunately.

Mr. BUCK. It is generally believed, however, and it is understood that proper aging is a necessary factor in the production of a palatable whisky. To this point the Congress in 1897 enacted the Bottled in Bond Act, which lays down the qualifications and the methods of producing and aging bottled-in-bond whisky. Bottled-in-bond whisky since that time, in my opinion, has generally been understood by the consumer to be the standard American whisky. Whether this consumer assumption is correct or incorrect, we will not discuss here. Suffice to say that 4-year-old whisky is looked upon generally as being a matured whisky, and might therefore be used as a standard in our consideration of the subject of whisky so far as quality is concerned.

I should like to introduce the chart entitled "Total Stocks of Whisky 4 Years Old and Over Remaining in Bonded Warehouses as Compared with Such Stocks Held by Four Companies."

(The chart was marked "Exhibit No. 402," and is included in the appendix on p. 2681.)

Mr. BUCK. Considering the importance of 4-year-old whisky in the industry—

The CHAIRMAN (interposing). You have identified this chart?

**TOTAL STOCKS OF 4-YEAR-OLD-AND-OVER WHISKIES HELD BY ENTIRE INDUSTRY AS COMPARED WITH HOLDINGS OF FOUR MAJOR COMPANIES**

Mr. BUCK. Yes, Senator. This chart shows the total stocks of whisky 4 years old and over remaining in bonded warehouses as compared with such stocks held by four companies. This shows the holdings of the four largest units in relation to the total of 4-year-old-and-over whiskies.

Mr. FERGUSON. Mr. Buck, these are the same companies?

Mr. BUCK. The same four companies are used throughout the entire study. For the first 3 years the chart indicates the percentages

held by two companies only, that is Schenley Distilling Corporation and National Distillers Products Corporation. Those two companies according to my information in 1934 held 72 percent of all four-year-old-and-over whisky. In 1935 the two companies held 79 percent of all 4-year-old-and-over whiskies. In 1936 they held 78 percent of all 4-year-old-and-over whiskies. Now, in 1937, we include the four companies, that is, Schenley, National, Seagram, and Hiram Walker. In that year the four companies' percent of control is 91. In 1938, when the stocks had greatly increased, the four-company control over 4-year-old whiskies is still 78 percent of the total.

This point, I might say, is to me very important and very significant because it is my opinion again, and I don't vouch for its value, that 4-year-old bottled-in-bond whisky makes the top level of prices in the industry.

Mr. FERGUSON. May I ask, Mr. Buck—I am not sure whether you have stated for the record or not—but these charts and your testimony constantly refer to 4-year-old whiskies—

Mr. BUCK (interposing). Four years old and over.

Mr. FERGUSON. Is that because whisky that is under 4 years old cannot be legally sold?

Mr. BUCK. Oh, no.

Mr. FERGUSON. What is it?

Mr. BUCK. In this country, as distinguished from Great Britain, whisky may be sold at any age. The only difference is in the standard of the whisky. For instance, no whisky can be sold as straight whisky in this country unless it is, I think, at least 2 years old now. All straight whisky must be 2 years old, but whisky might be any age and it may be a composition of whisky and neutral spirits, and water, and so forth. It doesn't all have to be straight distilled whisky.

Senator KING. The licensed vendor must indicate, must he not, the character of what he is selling?

Mr. BUCK. The regulations under the Federal Alcohol Administration Act require the whisky is to be labeled according to its standard fixed by that Administration; therefore, in order to label any whisky "straight whisky," "straight rye," or "straight bourbon," it must be, for instance, 2 years old and have complied with other requisites of the standard.

Senator KING. You haven't answered the question. Has your organization made such investigation so that you are able to state whether there is any considerable quantity of whisky or spirits sold by bootleggers or by those who have private stills; or have the stills and the bootleggers been pretty well eliminated?

Mr. BUCK. Senator King, just before you came in we were on that point.

Senator KING. That is all right. I will read the record.

Mr. BUCK. I am perfectly willing to go over it.

Senator KING. I had another committee and couldn't be here.

Mr. BUCK. The statistics available to me as to the gallon basis—I don't know whether they are dependable—the report of the Alcohol Tax Unit shows that approximately something over 14,000 distilleries were destroyed last year, 16,000 distilleries were destroyed last year. How much of that is sold, no one knows, Senator, and I don't know any way to find out.

Mr. DAVIS. Mr. Buck, isn't it a fact, however, with rare exceptions these wildcat distilleries have very small productive capacity?

Mr. BUCK. That is my information, and I might say it is my experience, Judge.

Representative WILLIAMS. Mr. Chairman, may I ask a question?

The CHAIRMAN. Certainly, Congressman Williams.

Representative WILLIAMS. Mr. Buck, I am not sure you put into the record what is necessary for a whisky to be bottled in bond and so labeled.

Mr. BUCK. I have that right here. It is a short statute. I will read it if the committee will prefer or I will offer it for the record. It is the Bottled in Bond Act of 1897 with its amendments.

The CHAIRMAN. Suppose you state what the act provides and then let it go into the record.

Senator KING. Were there not some regulations after the transfer from the Treasury Department to the present Alcohol Administration promulgated which changed or modified the act to which you are about to refer?

Mr. BUCK. Senator King, I have been counsel for this Administration since it was set up, and it is my opinion that we are not authorized to change the statute by regulation. We therefore must recognize the statute.

Senator KING. My recollection is rather indistinct. I had something to do with that transfer to your organization. I thought we gave you some authority which we repealed by implication, if it did not do it directly, some of the provisions of the act to which you are about to refer.

Mr. BUCK. I have in mind what you have in mind. It is a regulation passed some years ago, providing that we might do that. Yes; you are right about that, Senator, as usual. You are always right.

But I know what you refer to, and you are correct. We have not changed the standards fixed by the statute.

The CHAIRMAN. Now, suppose you tell the rest of us what you and Senator King understand.

Mr. BUCK. I always grant the Senator that.

Mr. DAVIS. Did that law become effective without regard to the appointment of the Federal Alcohol Commission?

Mr. BUCK. I don't quite understand you, Judge Davis.

Mr. DAVIS. Did the act with which you and Senator King seem to be more familiar than the rest of us become effective also upon the appointment of the Federal Alcohol Commission, which was the case with respect to the general amendment to the law?

Mr. BUCK. Judge, no. My recollection is that the amendment which Senator King has reference to was attached to and part of a taxing act.

The CHAIRMAN. Let me interrupt to ask you to answer Congressman Williams' question, and that will present the whole matter and we will all understand it.

#### UNITED STATES BOTTLED IN BOND ACT

Mr. BUCK. It is commonly referred to as the Bottled in Bond Act of the United States, "An Act to allow the bottling of distilled spirits

in bond (Act of March 3, 1897), as amended by Act of March 2, 1929; Act of June 26, 1936, and as amended by Act of July 9, 1937." That is the amendment Senator King had reference to, and provides:

*Be it enacted, etc.,* That whenever any distilled spirits deposited in the internal revenue bonded warehouse have been duly entered for withdrawal before or after tax payment, or for export in bond, and have been duly gauged and the required marks, brands, and tax-paid stamps (if required) or export stamps, as the case may be, have been affixed to the package or packages containing the same, the distiller or owner of said distilled spirits, if he has declared his purpose so to do in the entry for withdrawal, which entry for bottling purposes may be made by the owner as well as the distiller, may remove such spirits to a separate portion of said warehouse which shall be set apart and used exclusively for that purpose, and there, under the supervision of a United States storekeeper-gauger in charge of such warehouse, may immediately draw off such spirits, bottle, pack, and case the same. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller,

these are the qualifications of bottled-in-bond whisky—they must be spirits of the same kind,

may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products or of the same products of different distilling seasons.

In other words, the whisky must be distilled by the same distiller in the same distillery, and at the same season.

I might say there that there are two seasons in the whisky business, summer and fall. That is what is usually referred to.

Of the addition or subtraction of any substance or material, or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized; nor shall there be at the same time in the bottling room of any internal revenue bonded warehouse any spirits entered for withdrawal upon payment of the tax and any spirits entered for export. Every bottle, when filled, shall have affixed thereto and passing over the mouth of the same a stamp denoting the quantity of the distilled spirits contained therein, and evidencing the bottling in bond of such spirits under the provisions of this section and of the regulations prescribed under paragraph 3,

They are the regulations.

Representative WILLIAMS. I see the expression is used in the statute, "duly aged." What is that

Mr. BUCK. Four years.

Representative WILLIAMS. Well, all right. And what is the proof?

Mr. BUCK. One hundred proof.

Representative WILLIAMS. It must be 100 proof and 4 years old?

Mr. BUCK. That is right, and it must all have been distilled by the same distillery, by the same distiller, in the same season and at all times kept under the supervision of the Government. That is the point in the statute. That isn't all the statute, and I will ask to have it included in the record in its entirety.

The CHAIRMAN. It is so ordered.

(A copy of the act was marked "Exhibit No. 403" and is included in the appendix on p. 2681.)

Mr. BUCK. Mr. Chairman, this is as far as I had intended to proceed this afternoon.

The CHAIRMAN. You were not planning, then, to call any witnesses this afternoon?

Mr. BUCK. I am not. Mr. Seton Porter<sup>1</sup> is here, and I am willing to call him if he wishes to be called. I would prefer to call him in the morning, however. He told me if he could get away by noon tomorrow it would be satisfactory, and I can get through with him by noon.

The CHAIRMAN. If that is satisfactory between you and Mr. Porter, it is satisfactory to the committee. It is now 20 minutes to 5, and you have completed all you have to say this afternoon?

Mr. BUCK. Yes, sir.

The CHAIRMAN. Are there any questions to be propounded to Mr. Buck by any member of the committee? If not, the committee will stand in recess until 10:15 tomorrow morning.

(Whereupon, at 4:40 p. m., a recess was taken until Wednesday, March 15, 1939, at 10:15 a. m.)

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<sup>1</sup> President, National Distillers Products Corporation, see testimony, *infra*, p. 2450 et seq.





# INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, MARCH 15, 1939

UNITED STATES SENATE,  
TEMPORARY NATIONAL ECONOMIC COMMITTEE,  
*Washington, D. C.*

The committee met at 10:40 a. m., pursuant to adjournment on Tuesday, March 14, 1939, in the Caucas Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Representatives Reece and Williams; Messrs. Henderson; Davis; Ferguson; Arnold; Berge; O'Connell; Patterson; Lubin; Thomas C. Blaisdell, Jr., representing Securities and Exchange Commission; and Ernest Tupper, representing Department of Commerce.

Present also: Senator Pat McCarran, Nevada; Federal Trade Commissioners William A. Ayres and Charles H. March; Willis J. Ballinger, Director of Studies and Economic Adviser to Federal Trade Commission; Phillip E. Buck, Chief Counsel, and John P. Brown, attorney, Federal Alcohol Administration.

The CHAIRMAN. Will the committee please come to order? I think there are enough of us around to begin the hearings. Mr. Ballinger, are you ready to proceed?

Mr. BALLINGER. Yes, sir. Mr. Buck will continue the presentation of the Federal Trade Commission.

The CHAIRMAN. Mr. Buck, are you prepared?

Mr. BUCK. Mr. Chairman, when the committee recessed yesterday I think we had "Exhibit No. 402" on the board. This, of course, illustrates the percentages held by first two companies, for the years '34, '35, and '36, in 4-year-old whisky and over. The last two columns illustrate the percentages held by four companies in all whisky stocks 4 years old and over, and as I said yesterday, I think this chart is important as we proceed in the discussion of prices. I think perhaps the chart might be significant there.

Some question arose yesterday as to the volume of imports. We have another chart entitled "Total Whisky Imported Into United States, 1934-38"—

Senator KING (interposing). Mr. Buck, is it the contention of your organization that there is a monopoly in the whisky business, that prices have been fixed, that the laws, the Federal Trade Commission Acts and the monopoly laws, have been violated, or are you just trying to present the facts as to the condition for the committee to draw its own conclusion from the facts that may be presented?

Mr. BUCK. Senator King, yesterday I made the statement that I am not making an effort to prove a case of any sort.

Senator KING. You are just presenting the facts, then?

Mr. BUCK. Just presenting the facts of the industry. What they will show; that, I think, is the committee's judgment.

Mr. BALLINGER. Senator, may I say that in our program here we selected certain industries which we believe exhibit monopolistic practices, and after looking this study over we thought it exhibited monopolistic practices.

Senator KING. May I say unfortunately some of us have other committees. I have three this morning and it will be impossible for me to be here during the entire hearing as it was yesterday impossible for me to be present, but I will read the record.

The CHAIRMAN. I think, in view of the question asked by Senator King and the answers, particularly that of Mr. Ballinger, it may be proper to point out again that no conclusions can be voiced with respect to this committee except by the committee itself.

Mr. BALLINGER. That's my understanding.

The CHAIRMAN. This is not, in other words, a grand jury investigation with a prosecuting agency presenting evidence to secure an indictment. That, of course, is the farthest thing from our thought.

Mr. BUCK. Yesterday we noticed some decline in withdrawals of whisky which we use in this study to indicate consumption; that is, withdrawals of domestic whisky, and some thought was expressed by myself, I believe, that maybe imports had increased and thereby causing the decline in the consumption of domestic whisky.

#### TOTAL WHISKY IMPORTED INTO THE UNITED STATES

Mr. BUCK. This chart shows total import of whisky in proof gallons from 1934 to 1938.

(The chart referred to was marked "Exhibit No. 404" and is included in the appendix on p. 2684.)

Mr. BUCK. It began in '34 with five-million-six-hundred-and-some-odd thousand; '35 was five-million-eight-hundred-odd thousand; '36, 13,375,339 gallons, but observe that that is a considerable increase in 1 year. The following year imports had reached the peak, according to our figures of 14,348,000 gallons, and in '38 this began to decline and dropped to 10,320,000. The chart also—

The CHAIRMAN (interposing). Do you happen to know, Mr. Buck, whether the reciprocal trade agreement with Great Britain contains any provision that would be likely to affect the importations of liquor from Great Britain?

Mr. BUCK. It is my recollection, Senator, that under the trade agreement with Great Britain and Canada the tariff on 4-year-old whisky is reduced to \$2.50 as against \$5 contained in the original tariff act. I think that is correct.

The CHAIRMAN. On what age?

Mr. BUCK. Four-year-old whisky, whisky 4 years old and older.

The CHAIRMAN. I understand that in 1938 there was apparently a substantial falling off of the importation of Canadian whisky.

Mr. BUCK. I will give you my opinion of that. I think it is substantiated by the conditions in the industry. In the beginning, such companies as Seagram—Seagram is primarily, I say, a Canadian com-

pany, and Hiram Walker has definite Canadian connections, though I don't know whether they consider themselves a Canadian company or an American company—

The CHAIRMAN (interposing). Do you happen to know where they are incorporated?

Mr. BUCK. Well, there are so many corporations, the parent companies, I think, are all incorporated in Canada.

The CHAIRMAN. Of Seagram and Walker?

Mr. BUCK. And Walker. You see, when repeal came in 1933 there was a considerable lack of aged whiskies in the United States. These two companies undoubtedly had storehouses of whisky in Canada, and they imported considerable stock to this country for the purpose of making blends, you see, using the old Canadian whiskies, whiskies, that they owned themselves, and mixing them with neutral spirits or ethyl alcohol in making what is known as a blended whisky.

The drop in 1938 may be due to the fact that during the 4 years those two companies, which are among the largest, have laid up stocks in the United States and no longer import their Canadian stocks for that commercial purpose.

Senator KING. Mr. Buck, is this a correct statement of the present tariff law with respect to liquor, that first paragraph, as well as the second? Please read it.<sup>1</sup>

Mr. BUCK (reading):

The duty rates on imported whisky from about 1926 to the present time have been \$5 a tax gallon. From this, should be subtracted \$2.50 a tax gallon for whisky stored at least 4 years in wooden containers and entered for consumption or withdrawal from consumption on and after January 1, 1936.

Senator KING. Read the next paragraph.

Mr. BUCK. That is not all the second one. Do you want me to complete the second?

Senator KING. Yes.

Mr. BUCK (continuing reading):

The effective date of the Canadian trade agreement under the most-favored-nation principle applied to whisky from all countries with the following exceptions: (1) Germany, including Austria and part of Czechoslovakia when recently incorporated into Germany, and (2) Australia, for the period from August 1, 1936, to February 1, 1938. To these duties should, of course, be added the excise tax, the rates being \$1.10 a tax gallon in 1933, \$2 a tax gallon in 1934, through the first 6 months of 1938, and \$2.25 a tax gallon for July 1, 1938.

Senator KING. Then the excise tax plus the tariff on bonded whisky, 4 years and over, would be approximately \$5.

Mr. BUCK. It is a little in excess of that, and I have those figures to come along later, Senator.

Senator KING. What you have read is a correct statement, is it not?

Mr. BUCK. That is my opinion.

Dr. LUBIN. Mr. Buck, may I ask this question. I was very much interested in this chart on total whisky imported,<sup>2</sup> and if you tie that up with the chart you showed us yesterday on total domestic production or withdrawals, one gets a pretty good picture of the consumption of the country. Yesterday you made certain comments relative to the

<sup>1</sup> Senator King handed Mr. Buck a schedule prepared by Federal Alcohol Administration from internal revenue laws.

<sup>2</sup> "Exhibit No. 404," appendix, p. 2684.

decline in consumption, at least on a per capita basis. Do the figures you thus far have submitted include alcohol which has been blended with whisky so we get the total gallonage of consumption?

Mr. BUCK. Let me see, you mean do the figures in this present chart include neutral spirits?

Dr. LUBIN. No; this plus the figures yesterday<sup>1</sup> would give us some idea as to consumption in the country as a whole, in other words, domestic plus imported. Do the domestic figures also include such alcohol which is added in blending liquor, so that the total gallonage would represent not only the straight whisky, as it were, but all liquor consumed, including alcohol?

Mr. BUCK. I think not, because the charts we used yesterday were based upon the production of whisky, and the storage and withdrawal of whisky as such. This chart is also based upon whisky. I see your point and it is a very interesting one. I may illustrate it in this manner. Take the 10,000,000 gallons imported in '38. If all of that had been used for blends, that is, say, a blend consisting of 25 percent whisky and 75 percent alcohol—that is known as rectifying under our system—you would then have approximately 40,000,000 gallons to the consumer. I see your point, and these figures, as I understand them, are based upon whisky.

Mr. DAVIS. In other words, the imported whiskies we are talking about have not been blended prior to their importation into the United States.

Mr. BUCK. Judge, you have it both ways. If the whisky is imported in bottles, it has been blended. If the whisky is imported in bulk, it is usually imported for the purpose of blending in the United States, or it may be.

And it may be imported in bulk, of course, for bottling in this country, but once it gets into the hands of the rectifier it may be mixed into blends or sold as straight whisky, or all whisky, you see. But, for instance, if you import a blended whisky from Canada, to get to the point, the blend may be 25 percent whisky and 75 percent alcohol in Canada, but once it is bottled it is imported as whisky. Do you see? Therefore, if it is imported in bottles, it is usually whisky.

Mr. DAVIS. But if it is imported in barrels, it is imported in the original barrels?

Mr. BUCK. That is my understanding; yes, sir.

The CHAIRMAN. Proceed.

Mr. BUCK. This chart, again,<sup>2</sup> of course, is broken down into classifications of whisky. The Canadian whisky is shown by the black sections, and the percentages are stated. In 1934, 56 percent of all imports were Canadian; in '35, 54 percent; in '36, 55 percent; in '37, 52 percent. You see in '38 it dropped down to 35 percent. I would say it indicates the two companies using American stocks instead of their Canadian stocks, Senator O'Mahoney, as we discussed.

United Kingdom whiskys are indicated, and that is principally Scotch whisky. Now Scotch whisky is a blended whisky also. It is a whisky that is made from a certain percent of highly flavored or characterist c malt mixed with what they call plain British spirits. There is some contention among the experts in the industry as

<sup>1</sup> See Exhibit No. 398, appendix, p. 2677.

<sup>2</sup> "Exhibit No. 404," appendix, p. 2684.

to what is the difference between what is known under the British law as plain British spirits and under our law as ethyl alcohol. The Scotch whisky is usually a blend of heavy Scotch malt whisky with plain British spirits.

The peculiarity about those factors is this: Under the British system in the making of Scotch whisky they age plain British spirits before it is mixed with the Scotch whisky in order to get a blended whisky. In the United States, we don't look upon the aging of neutral spirits as being of any advantage.

The CHAIRMAN. When you say "we," whom do you mean?

Mr. BUCK. This country, the industry.

The CHAIRMAN. Do you mean the distillers or the consumers?

Mr. BUCK. The distillers, the experts.

The CHAIRMAN. Well, is there any substantial difference, aside from this factor of aging, between domestically manufactured whisky and this imported Scotch?

Mr. BUCK. There is a difference in the characteristic of the whisky. They taste different. One has a heavy, smoky flavor which comes from the grain having been dried over peat fires before it is distilled. That is how you get the Scotch flavor. It is a smoky flavor; it is about the only way you can describe it. It is true, it is characteristic, because it actually comes from having been smoked.

The CHAIRMAN. That is not simulated in the domestically manufactured product?

Mr. BUCK. You mean in the alcohol that is mixed with it?

The CHAIRMAN. Perhaps I should ask, first, is there a product manufactured in the United States which is called Scotch whisky?

Mr. BUCK. No, Senator. The regulations of the Alcohol Administration provide that they may make what is known as a Scotch-type whisky, not a Scotch whisky, but a Scotch-type whisky, in the United States. The Scotch-type whisky made in the United States is a mixture of a certain percent of Scotch malt whisky, imported, with ethyl alcohol, in this country, you see. The reason, one reason, why it can't be called Scotch whisky is because the regulations require all Scotch whisky to be made in Scotland.

The CHAIRMAN. Perhaps I am causing you to devote too much attention to the inherent characteristics of whisky. There naturally is a division of opinion on that, and lots of people express the opinion that all whisky is bad and others express the opinion that all whisky is good, so we won't go into that.

Mr. BUCK. That's right. I don't have any opinion on it.

You will notice "other whiskies," a very small percent running through the chart classified as "other whiskies," 6 percent in 1934, 4 percent in 1935, and the percentage is so small in the other years I can't see them from here. That, I believe, consists principally of Irish whiskies. There again you have a definite line of demarcation in whiskies. There is a certain similarity between Irish whisky and Scotch whisky, yet there is a very definite line of demarcation between the two.

The CHAIRMAN. Inasmuch as your charts yesterday<sup>1</sup> indicated that there is a substantial domestic overproduction, what, in your opinion,

<sup>1</sup> See "Exhibits Nos. 394, 395, 396, 397, 398, 399, 400, 401, and 402, appendix pp. 2675 to 2681.

is the reason for the importation? Is it based upon a normal and natural demand for a foreign product?

Mr. BUCK. Senator, my opinion is that it is based upon an acquired taste by the consumer, to a large extent; and, too, the foreign whiskies, especially the Scotch whiskies, are old, you see. Some of our people are very age conscious about whisky. They like a whisky 8 or 10 years old.

Now you can't get that in this country as a general rule. You can, of course, get some, but here they can get what is known as 8- and 10-year-old whisky at about the same price that you get bottled-in-bond whisky for, and another factor involved in it, I think, is the price relationship between the imported Scotch whisky and the highest domestic whisky, the bottled-in-bond.

I don't know what the answer would be to that situation if bottled-in-bond whisky was cheaper than Scotch, any appreciable amount cheaper.

There is, I might say—in this miscellaneous percentage of whisky—there might be a little whisky from other countries but none of any consequence.

Yesterday I made reference to certain material that might aid anyone who may read this record. I forgot to include two references, one was to the report on the whisky-trust investigation of the Fifty-second Congress, second session, which I now make for the record. It may be found in House Report No. 2601, of March 1, 1893. The other is the report made by the Industrial Commission, to be found in volume 1, pages 74 to 93, of that Commission's reports of 1900. It was entitled "The Whisky Combination." I just make these references. I don't think it is necessary to include the reports in the record, but anyone who may be interested in exploring the subject will have the references.

I believe that is about all.

(The reports referred to were marked "Exhibits Nos. 405 and 406," respectively, and are on file with the committee.)

The CHAIRMAN. Are you ready to proceed with the witnesses?

Mr. BUCK. Yes, sir.

The CHAIRMAN. Call your first witness.

Mr. BUCK. Mr. Seton Porter.

The CHAIRMAN. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, in these proceedings, so help you God?

Mr. PORTER. I do.

#### TESTIMONY OF SETON PORTER, PRESIDENT, NATIONAL DISTILLERS PRODUCTS CORPORATION, NEW YORK CITY

Mr. BUCK. Will you state your name, please, and your address?

Mr. PORTER. Seton Porter, 120 Broadway.

The CHAIRMAN. New York?

Mr. PORTER. New York.

Mr. BUCK. What is your business, Mr. Porter? I will ask you: Are you connected with the National Distillers Products Corporation?

Mr. PORTER. I am the president.

Mr. BUCK. President of the National Distillers Products?

Mr. PORTER. Yes.

Mr. BUCK. Have you been connected with the corporation since its organization?

Mr. PORTER. Yes.

Mr. BUCK. Do you know the history of the corporation very well?

Mr. PORTER. Yes.

Mr. BUCK. I wonder if you could and would give the committee the history of the corporation and its organization and what might be termed "its evolution," on through.

Mr. PORTER. It is quite a long story.

Mr. BUCK. Well, we'll listen.

The CHAIRMAN. When was it chartered?

Mr. PORTER. In 1924.

The CHAIRMAN. In what State?

#### HISTORY AND ORGANIZATION OF NATIONAL DISTILLERS PRODUCTS CORPORATION

Mr. PORTER. Virginia. The history, briefly, would be about as follows: At the time of the enactment of prohibition the largest unit in the whisky business, having sold practically all the whisky it had, had a considerable sum of money and entered the food business, the yeast business, the industrial-alcohol business. I am speaking now from the history, not from my own knowledge. They apparently had experience almost solely in the whisky business; the result of that was that that company went into bankruptcy. There were two classes of creditors; there were bonds held by the public, there were loans held by banks. There was a receivership in Kentucky, a bankruptcy in New York. The two sets of creditors got in a dispute. I was an engineer, a partner of an engineering firm, and we were called in to make an examination of what properties there were. As I recall it, Mr. George Rublee was the trustee in bankruptcy in New York originally, and I was ultimately asked to succeed him, and a reorganization was worked out during, I should say, 1922 and 1923, and in 1924 such assets as were left were put into a new company known as the National Distillers Products Corporation, and I became president of that company, which had all the remaining assets of the previous bankrupt company. We continued the operation.

The CHAIRMAN. What was the name of the previous company?

Mr. PORTER. The previous company was the United States Food Products Corporation. That, in turn, had been a successor corporation to the Distilling Co. of America, and other companies which had been engaged in the whisky business prior to 1914.

The CHAIRMAN. When the Distilling Co. of America ceased to produce liquor as the result of prohibition—

Mr. PORTER. The name was changed to the United States Food Products Corporation.

The CHAIRMAN. Where was the distilling company chartered, in what State?

Mr. PORTER. I couldn't say that.

The CHAIRMAN. How about the food company?

Mr. PORTER. I couldn't tell you that; it is 15 or 17 years ago.

Mr. BUCK. This organization, is that what was commonly called the old Whisky Trust, or something of that sort?

Mr. PORTER. That, I believe, was started in 1890 and was first called the Distilling Cattle Feeders Co., or something of that kind.

Mr. BUCK. That was involved in the investigation that I have referred to here this morning?

Mr. PORTER. I assume so.

During prohibition this company owned a considerable number of small and inactive distilleries, and it had a considerable stock of whiskies. It was a very small stock, measured in present-day figures, and that whisky was sold for medicinal purposes, which was the only way the law permitted it to be sold. And of course when repeal came, that company naturally possessed what was a considerable part of all the old whiskies in America, and whereas one of the charts that I think was shown you yesterday showed 65 percent of all the whisky over 4 years old being owned by this particular company that I speak of, at the time of repeal it had, I think, about 65 percent of all the old whisky in America. And then another company was added to it, and another, and another. I am speaking of the charts. There were four companies apparently on these charts that have over 60 percent of the 4-year-old whisky.

Is that a sufficient answer?

Mr. BUCK. No; it isn't what I have in mind.

Mr. PORTER. I am sorry; I didn't want to go into too much detail. I could tell you a very long story of it.

Mr. BUCK. What was the size of National Distillers Products Corporation in 1933, at the time of repeal?

Mr. PORTER. What do you mean by size?

Mr. BUCK. What were the assets, in round numbers, if you know.

Mr. PORTER. We filed all this with you, sir. I haven't it with me.

Mr. BUCK. How many subsidiaries do you have?

Mr. PORTER. We had a great many in '33, I imagine.

Mr. BUCK. I will run over these with you, Mr. Porter, if you don't object. The Crown Fruit & Extract Co., Inc., New York; is that a subsidiary of National Distillers, or was it in 1933-34?

Mr. PORTER. Yes.

Mr. BUCK. Alex D. Shaw & Co., New York, importers.

Mr. PORTER. Yes.

Mr. BUCK. How was Alex Shaw acquired by National?

Mr. PORTER. That was acquired prior to repeal, to handle our imports.

The CHAIRMAN. Mr. Buck, may I interrupt? Is the National Distillers Products Co. an operating company?

Mr. PORTER. It is today, sir.

The CHAIRMAN. Was it when it was organized?

Mr. PORTER. No; it was not. It was a holding company when it was organized, and was not engaged in any direct operations. It owned this company that you just speak of, the Crown Fruit, and the Shufeld Co. Those are two small companies engaged in the importation of olives and the packing of cherries, and the way that came about was that in the failure of the old company, in the old days, they had a small company that produced all those odds and ends.

The CHAIRMAN. What was its capitalization?

Mr. PORTER. About \$100,000.



The CHAIRMAN. What sort of stock?

Mr. PORTER. Just ordinary shares, of which National Distillers owned all, always.

The CHAIRMAN. I was referring to the National Distillers. What was the capitalization of National Distillers?

Mr. PORTER. Today it is 2,000,000 shares, and originally it was 167,000.

The CHAIRMAN. One hundred and sixty-seven thousand shares of what kind?

Mr. PORTER. Ordinary shares, common stock.

The CHAIRMAN. Par value or no-par value?

Mr. PORTER. I think no-par value, I am not sure.

The CHAIRMAN. And how was that owned?

Mr. PORTER. After the receivership which I spoke of, in order to form that company, in the first place, preferred shares were issued to the creditors, those that owned bonds and the bank creditors, and they received 11,500,000 of 6-percent cumulative preferred stock. There was no working capital, and for working capital there was sold about 3,000,000 or 3,500,000 of debentures. To make those attractive and to make it possible to sell them, they were sold with common shares, so that when the corporation was started in 1924 it had about 3,500,000 of debentures, about 11,000,000 of 6-percent cumulative preferred stock.

The CHAIRMAN. These figures indicate dollars?

Mr. PORTER. Dollars, and 167,000 shares of common stock, which was mostly sold in the debentures. That was the original capitalization.

The CHAIRMAN. What was the value of the common stock?

Mr. PORTER. The common stock at that time represented, of course, a great deal of past goodwill and hopes and expectations, but it had very little value at that time. It sold for, I imagine, seven or eight dollars a share; I don't remember exactly.

The CHAIRMAN. Did you say whether or not it was par-value stock?

Mr. PORTER. I think it was no-par value originally. It is no-par value today.

The CHAIRMAN. The actual financing of the corporation, then, was by means of the preferred stock which was issued in exchange for assets, and the debentures which were issued in exchange for cash; is that correct?

Mr. PORTER. Preferred stock was issued to pay creditors, and the only cash came from the sale of common shares and debentures, which was about \$3,000,000.

The CHAIRMAN. By "creditors" I assume you mean those who were selling the physical assets of the corporation.

Mr. PORTER. No; they were people who had lent the money or who had bought bonds—bondholders and bank creditors.

The CHAIRMAN. How about the physical assets, how were they acquired?

Mr. PORTER. They were part of the bankrupt estate.

Mr. BUCK. And at what period was that?

Mr. PORTER. That was consummated in 1924.

Mr. BUCK. As I understand it, you are an engineer by profession.

Mr. PORTER. Yes, sir.

Mr. BUCK. You had been an engineer prior to that time?

Mr. PORTER. Yes, sir.

Mr. BUCK. And you had never had any connection with the whisky business until after the adoption of the twenty-first amendment.

Mr. PORTER. Except that this company was engaged in the medicinal-whisky business during the period of prohibition.

Mr. BUCK. When did you first become associated with the whisky business?

Mr. PORTER. At this time, in 1924.

Mr. BUCK. Was it a major part of your activity, or just a side line?

Mr. PORTER. No; it takes a major part of my time.

Mr. BUCK. You also had an engineering corporation that you operated throughout the country?

Mr. PORTER. Yes.

Mr. BUCK. Did you have any other questions?

The CHAIRMAN. No; I don't want to interrupt your line of inquiry.

Mr. BUCK. I am just trying to get the thing set with one date.

Now, Alex D. Shaw & Co.—who are they, and what are they?

Mr. PORTER. Alex D. Shaw was a company that had for many years been engaged—that is, prior to prohibition—in the importation of foreign spirits and wines; and so that we might have an importing branch to our business, we acquired control of what had been for many years an inactive business.

Mr. BUCK. When was that?

Mr. PORTER. Prior to repeal; in 1933, I suppose.

Mr. BUCK. Just a few months before repeal?

Mr. PORTER. Six or seven months, perhaps.

Mr. BUCK. You acquired it under the anticipation of repeal of the eighteenth amendment?

Mr. PORTER. Yes.

Mr. BUCK. And Alex Shaw is an old-established importing firm in New York, has been there for many years; is that correct?

Mr. PORTER. That is right.

Mr. BUCK. And just before repeal National acquired a control in Alex Shaw; is that so?

Mr. PORTER. Yes.

Mr. BUCK. What is the status of the Alex Shaw Co. now with National?

Mr. PORTER. We own it.

Mr. BUCK. You own it wholly now?

Mr. PORTER. Own it wholly; yes.

Mr. BUCK. You now own 100-percent control of Alex Shaw?

Mr. PORTER. That is right.

Mr. BUCK. Was John de Kuyper & Son, Inc., a subsidiary of National at one time?

Mr. PORTER. Yes.

Mr. BUCK. What is the business of John de Kuyper & Son?

Mr. PORTER. Well, the firm of John de Kuyper & Zoon, of Rotterdam, have been engaged for many, many years in the manufacture of cordials in Holland, which they sell all over the world, and we and they conceived the idea that they should be manufactured in America to serve this market, and we formed a small company, in partnership with them, whereby, using their formula and skill and knowledge,

under the supervision of their experts, the cordials are made in this country. That company has, I think, a capitalization of about \$100,000. We own 70 percent of the stocks, and our Holland partners own 30 percent.

Mr. BUCK. In other words, that is a subsidiary organized by National with this Holland concern after repeal for the purpose of making certain specialties in the business?

Mr. PORTER. That is correct.

Mr. BUCK. And you own about what—60 percent of that?

Mr. PORTER. Seventy percent.

Mr. BUCK. National Pure Spirits Corporation: When did you acquire that?

Mr. PORTER. How is that? National what?

Mr. BUCK. National Pure Spirits, a Delaware corporation organized in 1934.

Mr. PORTER. I don't know, sir.

Mr. BUCK. You don't know? It is apparently an experimenting company for aging of whisky, or something of that sort? Maybe you have forgotten about it.

Mr. PORTER. I don't think that is an active company.

Mr. BUCK. You think not?

Mr. PORTER. No; I am sure not.

Mr. BUCK. Medicinal Holding Corporation: What is that?

Mr. PORTER. Oh, I think that was a company that must have been formed in the process of dissolving many of these companies. You see, if I may explain: At the time of repeal, or shortly thereafter, National was a holding company, as I previously stated, owning a number of subsidiary operating companies, not itself engaged directly in doing business. Then, as you know, the laws were very much changed, and in step with the change in laws we made National a direct operating company, dissolving as rapidly as we could all the subsidiary companies that the law permitted us to dissolve. We have to have some to comply with different state laws.

Mr. BUCK. Yes; but I am asking you about a period when these things were being acquired. Now you are talking about a period when you are divesting.

Mr. PORTER. That company may have been formed in a period of acquisition, I am not sure.

The CHAIRMAN. May I suggest that you ask the witness to give us the list of subsidiaries at the time the company was organized in 1924 and then the list of subsidiaries now so that we can make the comparison.

Mr. BUCK. Do you have such a list, Mr. Porter, of the subsidiaries of your corporation as it existed in 1934?

Mr. PORTER. In 1934?

The CHAIRMAN. No; in 1924 when it was organized.

Mr. PORTER. I haven't it here.

The CHAIRMAN. You see, the suggestion, which one draws from these questions and from your testimony is that because of changed conditions the character of the corporation was changed. You acquired apparently some subsidiaries at the time of organization and then you divested yourself later on. I think the committee would like to know just what the status of the subsidiary organiza-

tion was when you were organized, at the time that repeal took effect, then in 1933, and then at the present time.

Mr. PORTER. I think I can answer that in a general way. I cannot answer about each specific company. In 1924, Mr. Chairman, these properties which National Distillers acquired were primarily as follows: Shufeld Co., engaged in packing cherries and olives, which we still own today; a company called the Kentucky Alcohol Co., which was engaged in the business of industrial alcohol. We were in prohibition, so it couldn't be sold for beverage purposes. A yeast company called the Liberty Yeast Co., and a whisky company called the Kentucky Distilleries & Warehouse Co.

As I have said, the parent company had just enough cash to start its operations and my task was to try to develop some of those businesses that had been inherited from the bankrupt estate.

The CHAIRMAN. But at that time when you speak of operations you were not referring to the actual production of products?

Mr. PORTER. Yes, sir; we were making yeast; we were making alcohol, and we were owners and holders and sellers of whisky as far as the law permitted.

The CHAIRMAN. Were you doing that through the subsidiaries or the parent company?

Mr. PORTER. Through the subsidiary companies.

The CHAIRMAN. That is what I mean. The parent company was not an operating company.

Mr. PORTER. It was a holding company entirely.

The CHAIRMAN. It managed the other companies?

Mr. PORTER. It managed the other companies, owned all their securities.

The CHAIRMAN. It was then a financial agent for the other companies.

Mr. PORTER. That is correct.

The CHAIRMAN. And its principal function was to secure capital for them, and I suppose if necessary to direct the sales policy of the subsidiaries.

Mr. PORTER. That is correct.

The CHAIRMAN. Anything else?

Mr. PORTER. No.

The CHAIRMAN. Did the parent company direct the essential manufacturing policy of the subsidiaries?

Mr. PORTER. Well, in reality it was practically all one. I was the head of all those companies, so I was responsible for all the operations.

The CHAIRMAN. Are you an expert distiller?

Mr. PORTER. No; I am not an expert distiller.

The CHAIRMAN. I assume that the distilling, the actual distilling, was probably done by experts in the subsidiaries. My question was to elicit information as to whether or not the parent company exercised any policy control over the actual production by the subsidiaries, or was that largely left to those companies.

Mr. PORTER. It was really one organization, although for corporate purposes it was a holding company. We directed the policies of the subsidiary companies.

The CHAIRMAN. Then proceed with the development.

Mr. PORTER. Those were the principal companies in 1925, sir. The yeast business was developed and it was sold to the Fleischmann Co., and the cash that we got out of that was used in part to pay off some of our debts and to add to our working capital. In about 1928 or the beginning of 1929 we were rather fortunate in selling our alcohol business and received about 16—I think exactly 16½ millions in cash for it, and with that cash we were able to call 11 million of preferred stock that had been given to the creditors at the time of the reorganization. That wiped that debt out and gave us some additional cash. We then had nothing left in the company except this cherry and olive business, except the whisky business. Medicinal whisky was not sold in very large amounts, but it was a reasonably profitable business and we had more or less been forced into it, and we had then some additional working capital and for the first time were free of debt, and we started then in 1929. I was rather optimistic about it.

The CHAIRMAN. What was the year in which you were first free of debt?

Mr. PORTER. About '29. And we acquired additional whisky properties and additional whisky which was used for medicinal purposes, so that when some years later repeal came the National Distillers found itself the owner of some 60 percent perhaps of the whisky that still remained in America, which was a very small quantity of whisky, but still a very large proportion of what was left.

We were then confronted with the opportunity, perhaps also the responsibility, if repeal came, to try to develop as rapidly as we could a whisky business. Having, as I say, a considerable part of the existing stocks and owning a number of old properties which of course hadn't been operated, we set to work to get as many of them in operation as rapidly as possible.

The CHAIRMAN. When did you acquire those old properties?

Mr. PORTER. We owned most of them.

The CHAIRMAN. That combination of the old properties, then, was the result of operations which took place——

Mr. PORTER (interposing). During prohibition?

The CHAIRMAN. During prohibition.

Mr. PORTER. That is correct. We acquired some additional properties, but the bulk of what we had was owned all the time.

The CHAIRMAN. That is part of the story, Mr. Porter. I was asking you to detail——

Mr. PORTER. Up to date.

The CHAIRMAN. Up to date. Did you acquire any other operating companies after '29?

Mr. PORTER. Yes; we acquired the Overholt and Large properties. The Overholt is a very old distillery in Pennsylvania, and a large distillery.

The CHAIRMAN. When did you acquire that?

Mr. PORTER. That, I think, was just prior to repeal; at the time when repeal was well anticipated to be nearby. We acquired that with the purchase of shares; in other words, we gave shares of our company in exchange for these physical properties that we bought.

The CHAIRMAN. On what basis?

Mr. PORTER. Mr. Buck has all the details. I would say that we issued, I don't remember the exact number of shares, but it was in excess of 100,000 shares, for these physical properties of the Overholt and Large Distillery Cos.

The CHAIRMAN. Any bonds?

Mr. PORTER. No.

The CHAIRMAN. No preferred stock?

Mr. PORTER. No. There was some small payment in addition to the shares, but the shares were the major part.

Mr. DAVIS. Mr. Porter, as far as these various distillery properties, was it the general custom to give them National Distillers stock in exchange for the properties or in exchange for their stock, as you did in the Overholt case?

Mr. PORTER. In exchange for the properties, I think, sir.

Mr. DAVIS. In other words, you generally gave them stock in the National Distillers rather than payment in cash, did you, as you did in the Overholt case?

Mr. PORTER. Well, we did that in the Overholt case. That was, I think, the only large distillery that we bought.

Mr. DAVIS. You said you bought up quite a number after you had made this sale of your industrial-alcohol business in 1929.

Mr. PORTER. I perhaps gave you the wrong impression. It wasn't so much distilleries as perhaps it was whisky, because there were no distilleries.

Mr. DAVIS. In other words, whisky in bond.

Mr. PORTER. Yes. There were no distilleries in operation during prohibition.

Mr. DAVIS. I know, but you referred to them as old properties.

Mr. PORTER. Yes.

Mr. DAVIS. I suppose you meant the old distillery plants.

Mr. PORTER. Those were bought at cash, mostly.

Mr. DAVIS. Now, in buying these whiskies in bond did you generally purchase the brand names and good will?

Mr. PORTER. The company inherited a great number of the best-known brand names in the country, and then Overholt and Large were acquired, and certain other brand names were acquired when we purchased whiskies, but generally speaking most of the brands that the company owns today were an inheritance from the long-distant past.

Mr. DAVIS. Do you mean brands that were owned by the old distillery company?

Mr. PORTER. Yes, sir; many of them.

Mr. DAVIS. Could you give us the names of your brands that you owned at that time when you organized in 1924 and those which you have acquired since?

Mr. PORTER. We have got several hundred. It would be a very difficult thing. We, of course, could supply them, sir. I don't know that I could do it here.

Mr. DAVIS. It will be sufficient if you supply a list of those for the record.<sup>1</sup>

<sup>1</sup> Mr. Porter supplied the information in a letter, dated April 8, 1939, which was marked "Exhibit No. 516" and is included in the appendix on p. 2745.

Mr. PORTER. I think that in Mr. Buck's questionnaire that we submitted there are the names. I will give it to you anyway, sir.

The CHAIRMAN. Is there a distinction between brands and properties?

Mr. PORTER. Yes, yes.

The CHAIRMAN. So that when you buy a brand without buying property you buy the right to call a particular whisky by this—

Mr. PORTER (interposing). Trade-mark; a trade-mark.

Mr. BUCK. Not necessarily a trade-mark. All brands aren't necessarily trade-marked.

Mr. PORTER. No; preferably so.

The CHAIRMAN. Perhaps I could expedite this, Mr. Porter, if I should ask you quickly these questions. You have spoken now of acquiring the Overholt Co. in about 1929.

Mr. PORTER. No; about 1933, I should say.

The CHAIRMAN. How about Crown Food & Extract Co.?

Mr. PORTER. Owned from the inception.

The CHAIRMAN. Henry H. Shufeld & Co.?

Mr. PORTER. From its beginning.

The CHAIRMAN. Alex D. Shaw & Co.?

Mr. PORTER. From about 1933.

The CHAIRMAN. National Distillers Corporation of New England?

Mr. PORTER. Incorporated at the time of repeal in order to comply with the laws of the several States so that we could do business there.

The CHAIRMAN. A 100-percent owned subsidiary?

Mr. PORTER. One hundred percent.

The CHAIRMAN. Shewan-Jones Co.?

Mr. PORTER. That is a company we have just acquired in California, engaged in the brandy and wine business.

The CHAIRMAN. That is a new acquisition?

Mr. PORTER. Just in process of acquisition today. We felt we should like to have an interest in the domestic brandy business.

The CHAIRMAN. The Sunny Brook Distillery Co.?

Mr. PORTER. That is an old distillery in Louisville that was acquired, I should say, about—from memory—I should say about 1930.

The CHAIRMAN. The Black Gold Distillery Co.?

Mr. PORTER. That is the name of a company that simply owns a brand and has no property.

The CHAIRMAN. The Blue Grass Distillery Co.?

Mr. PORTER. Today that is the same thing.

The CHAIRMAN. Just a brand?

Mr. PORTER. Just a brand and a company?

The CHAIRMAN. The Bond & Lillard Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. The Cedar Brook Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. The Chicken Cock Distilling Co.?

Mr. PORTER. The same.

The CHAIRMAN. Crab Orchard Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Farmdale Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Gwynnbrook Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Hannis Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Hermitage Distillery Co.?

Mr. PORTER. That is a brand name company only.

The CHAIRMAN. No property?

Mr. PORTER. No.

The CHAIRMAN. Hill & Hill Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Mellwood Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. Mount Vernon Distillery Co.?

Mr. PORTER. I think that is only a brand-name company. I am not certain about that. The distillery is in Baltimore, and its property, which is a very old property and which belonged to the company in 1924, and as National is now a direct operating company, I think perhaps we are conducting that operation directly in our own name in Maryland, but the existence of that company would be to hold the brand. Of that I am not certain.

The CHAIRMAN. The Old Crow Distillery Co.?

Mr. PORTER. That is a brand-name company, but there is, of course, a property, but I think again there it is owned by the National Distillers.

The CHAIRMAN. The Old Grand Dad Distilling Co.?

Mr. PORTER. The same situation.

The CHAIRMAN. The Old McBrayer Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. The Rewco Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. The Spring Garden Distillery Co.?

Mr. PORTER. The same.

The CHAIRMAN. W. A. Gaines & Co.?

Mr. PORTER. The same.

The CHAIRMAN. Penn-Maryland Corporation.

Mr. PORTER. The same.

The CHAIRMAN. Where is the whisky manufactured to which these various brands are given?

Mr. PORTER. Well, in dissolving the operations, if it has been completely done, which I think it has, of a company like the Old Taylor Distilling Co., National Distillers owns that property and operates it, although I believe the permit would stand in the name of the Old Taylor Distilling Co.

The CHAIRMAN. Well, you have just testified to a number of incidents in which the corporate names represent only a brand and not a property. Now, with respect to those, where is the whisky manufactured that is sold under those particular brands?

Mr. PORTER. Well, would you like me to tell the different distilleries we have and what is made there?

The CHAIRMAN. Yes; I was going to ask you about that.

Mr. PORTER. In Baltimore we own the Mount Vernon Distillery where Mount Vernon rye whisky is manufactured solely. At Overholt, Pa., the Old Overholt whisky is made solely. At Large, Pa., Monongahela rye whisky is made. Those three distilleries manufacture what are called eastern rye whiskies.



In Kentucky we have a distillery near Frankfort called the Old Crow Distillery, and in that distillery Old Crow and Hermitage whiskies are made. Two brands are made there. Nearby, about a mile away—

The CHAIRMAN (interposing). Were they always made there?

Mr. PORTER. Always made there, for many, many years. Nearby, about a mile, is the Old Taylor Distillery, where Old Taylor whisky is made. In Louisville there is a distillery called the Old Grand Dad Distillery.

The CHAIRMAN. In answer to my first question with respect to both Old Crow and Grand Dad, I understood you to say that the company had acquired only the brand and not any property.

Mr. PORTER. No; I am afraid I didn't make myself clear, Senator.

The CHAIRMAN. I may have misunderstood you.

Mr. PORTER. No; we own the brand and the whisky and the distillery and the whole thing in all these cases. In Louisville there is the Grand Dad Distillery and also the Sunny Brook Distillery. At Grand Dad primarily Grand Dad whisky is made, but at Sunny Brook a great many others of these Bourbon whiskies, the names of which you have read, have also been made. Those are four distilleries in Kentucky, three in the eastern rye district, and we have two additional distilleries, one at Cincinnati where we make straight whiskies. We make no bottled-in-bond whiskies there, where we have a large blending plant and where we also make gin. There is another plant at Peoria where we also make lighter whiskies and younger whiskies and no bottled-in-bond whiskies and where we make spirits. That makes nine distilleries.

Dr. LUBIN. Mr. Porter, what became of the various distilleries that you acquired when you bought these brand names? Were they shut down and the production concentrated in the remaining distilleries in your possession?

Mr. PORTER. No, sir; we never bought any distillery and shut it down.

Dr. LUBIN. When you say you bought a brand name and when you bought the brand name you bought the whisky and the distillery and there are a whole series that were read off by the Senator, and yet there are only nine left. What happened to the others?

Mr. PORTER. Perhaps I might explain a point that I think will throw some light on that. This whole company that I have spoken of that I have been the head of was formed in 1924, as the result of the old whisky business, and it owned, as I recall it, about 50 different distilleries in Kentucky alone. By distilleries I mean real distilleries, properties, physical properties. I should think at least 50 of them.

Mr. BUCK. That was under the old Whisky Trust?

Mr. PORTER. Yes, sir; and that bears on this point, at least I think it does, in answer to your question. The Government during prohibition passed what was called a concentration act because the Government is required to have revenue agents at each plant where there is whisky in order to collect taxes in regard to property; and in order to save the Government money the Government ordered what they called the concentration of whisky. Our company, for example, was ordered to remove from about 40 or 50 distilleries whisky into one or two concentration houses, as they called them.

There were, I think, only 10 or perhaps 15 concentration houses in the United States. We had to dismantle some 40 or 50 distilleries in Kentucky and move the whisky that was left in them into Louisville into a concentration warehouse. For instance, the Chicken Cock, for example, that you mentioned, was an individual old distillery in Kentucky, owning its own property, making its own brand of whisky. That whisky was moved into Louisville and the distillery discontinued, and we still own that company and still own that name, but the distillery has never been rebuilt.

We have rebuilt a few of these distilleries. We have not gone out and acquired from here and there brands and distilleries and closed them down. There has been nothing of that kind. We owned about 200 brands or names of whiskys in 1924, I imagine. While we have acquired a few since, they have only been the ones mentioned here such as Overholt and Large and one or two more.

Dr. LUBIN. In other words, these corporations which were mentioned by the Senator were already in your possession before 1924 or before prohibition.

Mr. PORTER. A great many, at least.<sup>1</sup>

The CHAIRMAN. Perhaps I might suggest, Mr. Buck, inasmuch as the corporation has apparently answered one of the questionnaires, to facilitate the hearing, that there might be prepared on behalf of the witness and with the cooperation of yourself a memorandum or statement to go into the record showing the number of distilleries, separate distilleries, owned by the National Distillers Products Co., the number of names, trade brands, owned without any distilleries, and those which are accompanied by distilleries the date upon which each of these was acquired, and the manner in which the purchase was made effective.

Mr. PORTER. I will be very glad to furnish this.<sup>1</sup>

The CHAIRMAN. Thank you. I was going to suggest that there are also the following subsidiaries which might be included in that statement: W. & A. Gilbey, Ltd., of which I understand you own 60 percent of the voting stock.

Mr. PORTER. That is correct.

The CHAIRMAN. Is that a foreign company?

Mr. PORTER. No; that is an American company.

The CHAIRMAN. An American corporation?

Mr. PORTER. An American corporation but our partners are English who own the other stock.

Mr. BUCK. Who are they, Mr. Porter?

Mr. PORTER. W. and A. Gilbey of England.

The CHAIRMAN. Let me add to this table a statement of the state in which each of these subsidiaries is incorporated.

Mr. PORTER. Yes, sir.

The CHAIRMAN. Then John de Kuyper & Son, Inc.

Mr. PORTER. Yes.

The CHAIRMAN. Is that a foreign company or an American company?

Mr. PORTER. No; that is an American company which we formed in partnership with these gentlemen at Holland for the manufacture of cordials in this country.

<sup>1</sup> Included in the letter cited in footnote 1, p. 2458, supra.

The CHAIRMAN. You were testifying to a moment ago?

Mr. PORTER. Yes.

The CHAIRMAN. When did you form that?

Mr. PORTER. Shortly after repeal.

The CHAIRMAN. The Chickasaw Wood Products Co.

Mr. PORTER. That is a company in which we own an interest, but have no active participation, a barrel manufacturing company.

The CHAIRMAN. Train & McIntyre, Ltd.

Mr. PORTER. That is a Scotch company.

The CHAIRMAN. Are there any other subsidiaries?

Mr. PORTER. I think that is all, Senator, the principal ones at least.

Mr. O'CONNELL. I would like to ask you a question. At the time of the organization or the reorganization of the company in 1924, were the properties that you speak of as having been acquired or having been owned from the beginning all a part of the bankrupt estate of the company that was in receivership?

Mr. PORTER. Yes.

Mr. O'CONNELL. In other words, there were a number of independent or separate properties owned by the corporation in reorganization, or rather in receivership.

Mr. PORTER. That is correct.

Mr. O'CONNELL. And they were a part of the assets acquired by the new company?

Mr. PORTER. That is correct.

Mr. O'CONNELL. To verify in my own mind, at the time of the organization of the new company, the creditors of the company in receivership received preferred stock in return for their claim on the assets.

Mr. PORTER. That is right.

Mr. O'CONNELL. And in addition to that some three or three and a half million dollars of debentures were issued for working capital?

Mr. PORTER. That is correct.

Mr. O'CONNELL. And as an incentive to the persons from whom the money for working capital was to be received, the ownership of the new company, that is the common stock of the new company, was given to those who financed the new company.

Mr. PORTER. That is what I said, but I think as an actual matter of fact a considerable part of the common shares also went with the preferred as a further sop to the creditors. I did say that but I don't think I was right on that. I think only part of it went into debentures.

Mr. O'CONNELL. You wouldn't know what part?

Mr. PORTER. It is all a matter of record. It was all sold or given to the creditors, one or the other.

Mr. O'CONNELL. Between 1924 and 1929 did any new capital come into the company?

Mr. PORTER. Yes; as I have explained, through the sale of those properties.

Mr. O'CONNELL. Through the sale of the properties acquired as the result of the reorganization?

Mr. PORTER. The sale of the yeast business.

Mr. O'CONNELL. That is the sale of property which was a part of the bankrupt estate, I take it.

Mr. PORTER. Yes. There was no new financing.

Mr. O'CONNELL. So between 1924 and 1929, by a sale of properties acquired as the part of the reorganization, the new company was built up and acquired substantial sums in cash. I just wanted to get the picture of what happened.

Mr. PORTER. That is correct.

Mr. O'CONNELL. So I take it there was a substantial increase in the assets of the company between 1924 and 1929.

Mr. PORTER. Oh, very substantial.

Mr. O'CONNELL. But without new capital.

Mr. PORTER. No new capital.

Mr. O'CONNELL. I think you said before 1929 they paid off the preferred stock.

Mr. PORTER. Paid it off in 1929.

Mr. O'CONNELL. But that was without new capital.

Mr. PORTER. Without new capital.

Mr. DAVIS. Mr. Porter, with respect to your explanation of the concentration required by the Internal Revenue Department, resulting in your assembling the whisky in bonded warehouses and dismantling those plants, did this order of the Government have relation merely to the concentration of whisky in bond or did it involve an order to discontinue these various distilleries involved?

Mr. PORTER. No; it involved only the concentration of the whisky, because no distillery was in operation, so that when the properties were abandoned, they were mostly dismantled.

Mr. DAVIS. In other words, it was impractical to continue the operation of those distilleries.

Mr. PORTER. It was illegal.

Mr. DAVIS. That is what I was asking.

Mr. PORTER. Yes; illegal to operate them.

Mr. BUCK. Was it illegal to retain the distilleries?

Mr. PORTER. Oh, no, no; illegal to operate them.

Mr. DAVIS. That is what I was trying to get at, whether the order was directed to the question of concentrating the whiskies in the warehouses or also against the further operation of these distilleries.

Mr. PORTER. The order was for the concentration of the whisky, that was all.

Mr. DAVIS. But it was impractical to continue the operation of the distilleries and you had to transport the whisky to the concentration warehouse. Was that the result of that discontinuance?

Mr. PORTER. Yes, sir; it was illegal to operate the distillery. Once the whisky was taken away the property was useless.

(Representative Reece assumed the Chair.)

Mr. BUCK. The order didn't require you to destroy physical property.

Mr. PORTER. Oh, no; oh, no.

Mr. DAVIS. Was this order predicated upon the productive capacity of the different distilleries?

Mr. PORTER. Production was illegal. There was no production.

Mr. DAVIS. What was the limit that was made legal? In other words, what size distilleries were banned by the order?

Mr. PORTER. There were no distilleries in operation. It was illegal to operate them. There were no distilleries in operation at all that time.

Mr. DAVIS. This order of concentration of whisky was during the prohibition days?

Mr. PORTER. Yes.

Mr. DAVIS. And the distilleries were not in operation?

Mr. PORTER. No distillery in the country was in operation.

Mr. DAVIS. Of course, if you get a permit, the operation of any of those distilleries could be resumed since the twenty-first amendment.

Mr. PORTER. Oh, yes.

Mr. BUCK. Mr. Porter, as I understand the status of the situation now, you are to put into the record a statement of the subsidiaries of National as of 1924, 1933, and 1938.

Mr. PORTER. Yes, sir.

Mr. BUCK. Together with a statement of the brand names controlled by National as of those dates. That will take care of your domestic subsidiaries in the operation.<sup>1</sup> What foreign connections or subsidiaries do you have?

Mr. PORTER. We own a controlling interest in a Scotch firm known as Train & McIntyre.

Mr. BUCK. That is a Scotch bonded house or distillery?

Mr. PORTER. That is a Scotch whisky concern owning control of Scotch whisky distilleries and a stock of Scotch whisky, generally engaged in the Scotch whisky business.

Mr. BUCK. What other foreign subsidiaries or association does National have?

Mr. PORTER. That is the only operation outside of the United States in which we are interested.

Mr. BUCK. What about Jameson Co.? Are you interested in them?

Mr. PORTER. No. We are interested as small stockholders in Jameson Co., which is only engaged in business in the United States as far as I know. It is controlled, I believe, by an English company. We have no interest in the English company.

Mr. BUCK. Are you part owners of Jameson, together with an English company?

Mr. PORTER. There are a number of other interests in it. We have, I think, about 20 percent.

Mr. BUCK. What is the business of that company?

Mr. PORTER. They are importers of Irish whisky.

Mr. BUCK. Then, as I understand it, in your foreign connections you have this association in Scotland and also in Ireland through the Jameson Co.

Mr. PORTER. No, sir; we have no interest in Ireland.

Mr. BUCK. You use Irish whiskies?

Mr. PORTER. We are using Irish whiskies, if you mean by that that we also represent a number of foreign manufacturers. That is, we sell their merchandise in America. We have no interest in their foreign business, and we have no interest in the Jameson business in Ireland.

Mr. BUCK. Do you have any relation or association with the D. C. L. of Great Britain?

Mr. PORTER. No.

<sup>1</sup> Included in "Exhibit No. 516," appendix, p. 2745.

Mr. BUCK. Did you at one time attempt to negotiate a connection with D. C. L.?

Mr. PORTER. We have had many business relations with them, and we were agents for one of their brands of whisky for a long time. We sell them spirits in this country.

Mr. BUCK. Do you sell them spirits here?

Mr. PORTER. Yes.

Mr. BUCK. Do you also market their brands in this country?

Mr. PORTER. No; we do not.

Mr. BUCK. None?

Mr. PORTER. No.

Mr. BUCK. What is the D. C. L. in Great Britain?

Mr. PORTER. That is a large question. It is the dominant company in the British spirit business. It owns, controls, and sells, I believe, about 80 percent of the spirits that are sold in Great Britain, and it is very actively engaged in the export business, and like most English businesses, it derives most of its profit in foreign countries, and it does a very large business here.

Mr. BUCK. Do you have any connections or business associations with the Canadian side of the whisky industry?

Mr. PORTER. No; we have no interests in Canada.

Mr. BUCK. None at all?

Mr. PORTER. No.

Mr. BUCK. Now that takes care of the subsidiaries in a general way in the United States and abroad; is that true? You covered that entirely?

Mr. PORTER. I will repeat, our only interest, that is interest that we have in the foreign operation of any size that I know of, is our interest in Train & McIntyre, a Scotch whisky concern in Scotland, which we have the controlling interest of.

Mr. BUCK. Now let's step out of the direct whisky business for the moment. What affiliation or connection do you have in the cooperage business?

Mr. PORTER. Shortly after the time of repeal, in order to get barrels, the cooperage business having, of course, like the whisky business, been inactive for many years, we furnished capital to the Chickasaw Co. We furnished quite a considerable amount of capital to them, and among other things that we received from them was 51 percent of their stock, which gave us a protective control. Now that company has during these several recent years paid back most of its indebtedness to us, and I believe it will not be much longer before we will perhaps divest ourselves of interest in that concern. We have no desire to be in the cooperage business.

Mr. BUCK. That is your only cooperage affiliation?

Mr. PORTER. That is the only one; that is the only one we have any financial interest in. It is a relatively small financial interest.

Mr. BUCK. It is control.

Mr. PORTER. Yes; but we have nothing to do with the operation of the business. It is a very old concern.

Mr. BUCK. Now let's take the glass side. Glass is important in your business, I understand.

Mr. PORTER. Everything we sell is in glass.

Mr. BUCK. You don't sell any bulk whisky at all?

Mr. PORTER. No. Well, we may have sold it here and there, but it is infinitesimal.

Mr. BUCK. What affiliations do you have in the glass industry?

Mr. PORTER. We have no affiliations ourselves. Two of the directors of our company are officials of one of the big glass companies.

Mr. BUCK. What company?

Mr. PORTER. Owens-Illinois.

Mr. BUCK. They are directors in National?

Mr. PORTER. They are directors in our company; yes.

Mr. BUCK. And who are they?

Mr. PORTER. William E. Levis<sup>1</sup> and Harold Boeschenstein.

Mr. BUCK. Does that account for your association in the glass industry entirely?

Mr. PORTER. Yes.

Mr. BUCK. How important to the merchandising of whisky are brands; brand names?

Mr. PORTER. Very vital.

Mr. BUCK. As a matter of fact, it is one of the very vital factors.

Mr. PORTER. Oh, yes.

Mr. BUCK. Let's go back to 1933, at the time of repeal, which legally took place in December of 1933. The position of your company at that time was to acquire as many well-known brands as possible; would that characterize it correctly?

Mr. PORTER. I don't think that is in line with my answers. We owned, as I have said, a very large number of brands that we had owned since the incorporation of the company. We acquired some additional properties, but it would not be, I think, a fair statement to say it was our purpose to go out and acquire brands. We already had a great many.

Mr. BUCK. Well, assuming that you did have a great many, you did acquire more?

Mr. PORTER. We acquired, as I said, the Overholt and the Large distilleries, and except for that since 1933—I would like to have the opportunity of correcting this if I am wrong, but I am inclined to think we have not acquired anything else. I don't know to what you refer. You have a questionnaire, but my recollection is that we have acquired nothing.

Mr. BUCK. Let's take the Old Overholt as an illustration. How important is Old Overholt in your business?

Mr. PORTER. Have we acquired anything else? Am I wrong?

Mr. BUCK. I don't know.

Mr. PORTER. You have asked all these questions, you know, and we answered them.

Mr. BUCK. I am not quite sure that I asked them in that way, or that you have answered them. I am not certain on that. But let's take Old Overholt as an illustration. How important is Old Overholt in your business?

Mr. PORTER. It is a very important part of it.

Mr. BUCK. It is one of your important brands?

Mr. PORTER. Yes.

Mr. BUCK. That was acquired just before repeal, wasn't it?

<sup>1</sup> Mr. Levis testified before the committee December 13, 14, and 15, 1938. See Hearings, Part II, p. 474, et seq.

Mr. PORTER. Just before repeal; yes.

Mr. BUCK. The Large Distillery?

Mr. PORTER. That was the same purchase, both bought at the same time, the same seller.

Mr. BUCK. Mount Vernon is an important brand?

Mr. PORTER. Yes, very.

Mr. BUCK. What strata of the whisky market does Old Overholt occupy?

Mr. PORTER. It is a bottled-in-bond whisky.

Mr. BUCK. And what about Mount Vernon?

Mr. PORTER. The same, it is a bottled-in-bond whisky.

Mr. BUCK. What about Old Taylor?

Mr. PORTER. That is bottled in bond.

Acting Chairman REECE. Mr. Buck, it is now 10 minutes after 12 and I understand the committee wishes to resume at 2. When it is convenient for you to stop, I think it might be well to do so.

Mr. BUCK. I can stop right here, Congressman, if it suits the committee. Mr. Porter wants to get away today.

Mr. PORTER. I am at your service, of course.

Mr. BUCK. I am trying to get him finished.

Acting Chairman REECE. Do you wish to finish with him before noon? If so, that is agreeable.

Mr. BUCK. I am afraid it would take too long, and if you can come back until 3 or 4 o'clock, Mr. Porter, we will continue.

Acting Chairman REECE. The committee will stand adjourned until 2 o'clock.

(Whereupon, at 12:10 p. m.; a recess was taken until 2 p. m. of the same day.)

#### AFTERNOON SESSION

The hearing was resumed at 2:15 o'clock upon the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Are you ready to proceed, Mr. Ballinger?

Mr. BALLINGER. Yes, sir, Senator. Mr. Buck will continue his direct examination of Mr. Seton Porter.

The CHAIRMAN. I have to repeat a statement which I have made on several occasions here, that it has been the ordinary policy of the committee to permit the witnesses to proceed with their story under interrogation by the representative of the agency which is making its presentation, and that members of the committee ordinarily should refrain from interrupting that examination until the conclusion. Though I have repeatedly announced that policy, I have repeatedly offended against it, but I am going to make it again and try to permit you, Mr. Buck, to proceed uninterrupted this afternoon with your story so that we may handle the matter as expeditiously as possible.

Mr. BUCK. Thank you, sir.

The CHAIRMAN. You may proceed.

ITEM OF \$11,400,000 DESIGNATED IN NATIONAL DISTILLERS BALANCE SHEET AS FOR "BRANDS, TRADE-MARKS, PATENTS AND GOODWILL"

Mr. BUCK. Mr. Porter, just before the recess of the committee we were discussing the importance of brand names in the industry and



in a general way discussing the acquisition of certain brand names by your corporation just before repeal. I notice in the consolidated balance sheet of National Distillers Products Corporation for 1934 an item among the assets designated "brands, trade-marks, patents, and goodwill" at a value of \$11,400,000.- Could you tell the committee what part of that sum would be represented by brand names held by your company at that time under the valuation that is fixed by the corporate directors?

Mr. PORTER. The goodwill item you refer to results from the organization of the company, which I attempted to describe this morning briefly in the following way: Following the old receivership it was literally necessary in setting up the new corporation to have an item of about \$11,000,000 that was not expressed by any tangible assets; in other words, the debts exceeded the value of the properties by about that much. On the other hand, this great number of names of brands of whisky was worth a very large sum of money provided they ever could be used again, and therefore there was one item on the balance sheet represent the goodwill and brand names. Subsequently that whole amount has been written off. There is no such item on the balance sheet today.

Mr. BUCK. Do I understand that in order to get the company started you found where you had about \$11,000,000 more liability than you did assets; is that why you needed some?

Mr. PORTER. More than we did physical property or current assets. In other words, what I am trying to say is that \$11,000,000 was not a valuation fixed for the valuation of those brands, because that was during the period of prohibition, and if prohibition had continued, brand names would have had a very slight value compared to what they would have had if prohibition was repealed. They had a very great value. I never attempted to place any dollar value upon them.

Mr. BUCK. I am trying to understand your statement to the effect that at that time you found that the liabilities exceeded the assets by approximately \$11,000,000, and therefore it was necessary to fill in.

Mr. PORTER. That is correct.

Mr. BUCK. You didn't fill in just for the purpose of filling in—I mean, after all, it was evaluated, wasn't it?

Mr. PORTER. There has never been a valuation of those brands as such. There has been no appraisal, no opinion passed on what the value of such a brand as Overholt might be. We have never attempted to do that, and today we carry those brands at no value.

Mr. BUCK. As a matter of corporate finance, however, you don't simply make the two sides balance. I mean, it is based on some adequate appraisal, isn't it?

Mr. PORTER. I am trying to explain that growing out of the receivership and the reorganization, that \$11,000,000 item was created by the court and the proper legal authorities that brought that company into court. That item originated with the incorporation of the company.

Mr. BUCK. The court didn't require you to put \$11,000,000 in your assets?

Mr. PORTER. No.

Mr. BUCK. And the court didn't require you to fix that value?

Mr. PORTER. No.

Mr. BUCK. The value was fixed by the board of directors?

Mr. PORTER. Presumably; yes.

Mr. BUCK. You are a member of the board of directors?

Mr. PORTER. Yes.

Mr. BUCK. What, if any, investigation was indulged in by the board of directors to the point of arriving at the true market value of those items at the time?

Mr. PORTER. In 1924?

Mr. BUCK. 1934.

Mr. PORTER. Oh, I thought you were talking about '24 when this item appeared on the balance sheet.

Mr. BUCK. It appears in '34.

Mr. PORTER. In '34 it is still the same item; it's never been changed between those dates. I was trying to explain to you how it originated. It has not been originated by an appraisal of the value of the brands. In my opinion those brands are worth vastly in excess of that sum if they are permitted to be used in ordinary commerce under normal business conditions.

Mr. BUCK. You say there was no appraisal made at the time you valued them at \$11,400,000?

Mr. PORTER. Of the brands; no, sir.

Mr. BUCK. You have the charge to brands among your assets in your report to stockholders. And you wouldn't be able to tell the committee what proportion of this sum of \$11,400,000 is represented by brand names held by the corporation at that time?

Mr. PORTER. Practically all of them.

Mr. BUCK. Practically all. There was no individual assessment made as against individual brands?

Mr. PORTER. No, sir.

Mr. BUCK. How were they appraised?

Mr. PORTER. I have already said they were not appraised, Mr. Buck.

Mr. BUCK. They were not appraised?

Mr. PORTER. They were not appraised individually.

Mr. BUCK. Were they appraised in lump?

Mr. PORTER. Yes, sir.

Mr. BUCK. What was the appraisal based upon? How did you arrive at the value?

Mr. PORTER. Well, I will try to explain again. I am sorry if I don't understand. In 1924 when this company was formed as a result of the bankruptcy, that item was created by the people that formed the company, the lawyers, the accountants, the receivers, and others, and I would say in a general way, as I have said before, it was a balancing item. If it is important as to how that was created in 1924—

Mr. BUCK (interposing). This is 1934 I am talking about.

Mr. PORTER. Mr. Buck, the item was created in 1924. It remained, I believe, exactly the same figure and was never altered from the incorporation of the company during a period of a great many years, during which time a good deal of property was sold, debts were discharged, and the company reached a position where it created a sufficient earned surplus to permit the entire item to be retired from earnings, and it has now disappeared. How it was created in 1924, if it is important and you desire further information on it, I can certainly give it to you. I have tried to give you a rough sketch of

my recollection of what happened in 1924. I believe the brands of whisky owned by our company today are worth in ordinary commerce, if we are permitted to use them, a sum vastly in excess of that valuation that used to be on our books. No attempt has ever been made to put a figure against this brand or that brand or the other brand, and we have never had any data, any reports, or any supposition of that kind. There is no such thing existing. Estimates could be made, of course, based on earning power, based on prestige, that might be of interest, but we have no such thing, or we haven't been asked for it.

Mr. BUCK. Then that item has been retired through earnings in the corporation since 1934?

Mr. PORTER. Entirely.

Mr. BUCK. Regardless of what its value was as appears here?

Mr. PORTER. Yes, sir.

Mr. BUCK. You testified that your brands are worth far in excess of that sum at the present time. That wouldn't necessarily be true as of 1934. You don't know what they were worth then, do you?

Mr. PORTER. Well, they were worth something. As a brand receives public acceptance, as the product obtains wider sale, naturally it gradually has a greater value. I didn't mean to state specifically about it; I gave as my opinion that these brands were worth substantially more than that sum today. That is simply my own opinion.

Mr. BUCK. That goes to the point I am trying to reach, the point as to the value of these brands in your own company finance. From the consumer standpoint of the brand, or the public standpoint, why are these brands valuable?

Mr. PORTER. Well, any brand of whisky or liquor is valuable because of its quality, because the consumer has confidence in its continuity of quality, because people like it, because it is fairly priced, because it is fairly sold, because the public believes that the manufacturer is going to be able to continue to supply it, if it is 3-year-old or 4-year-old whisky or what-not, that he has accumulated sufficient stocks to continue to fill the orders; in general, the same thing applies to whisky that would apply to almost any other article in commerce, except that in whisky one has to plan a good many more years ahead than in most other businesses, because good whisky, as we all know, must be 3, 4, 5 years old, therefore it has to be made for 5 or 6 years before, and that requires a lot of foresight and a lot of patience.

Mr. BUCK. To sum it all up, isn't it a matter of fact that they are valuable because the consumer has learned to associate a particular class of goods with the particular brand name?

Mr. PORTER. Class of goods? Yes.

Mr. BUCK. Or particular kind of goods.

Mr. PORTER. Yes, sir.

Mr. BUCK. Now, these brands were in disuse for a long time, say from 1920 until 1933, 13 years?

Mr. PORTER. On the contrary, most of the most valuable ones were, to such extent as they could be, kept in continual use, and that helped their value to survive.

Mr. BUCK. I understood you to testify this morning that during prohibition you weren't allowed to sell any whiskies.

Mr. PORTER. No.

Mr. BUCK. Or to market any whiskies.

Mr. PORTER. You must have misunderstood me, because, Mr. Buck, you must be aware that during prohibition there was what they call medicinal whisky, and our company, as owning a considerable quantity of whisky, supplied the medicinal trade, and insofar as we possibly and humanly could, we tried to keep the brands that had value and that the public knew in circulation as far as was legally possible.

Mr. BUCK. That, as a matter of fact, was then being sold as a drug, as a medicine?

Mr. PORTER. Yes, medicinal liquor, it was called.

Mr. BUCK. It was called and was, as a matter of fact, wasn't it, under the law?

Mr. PORTER. Medicinal whisky.

Mr. BUCK. You didn't sell whisky for general distribution to the consumer as a beverage?

Mr. PORTER. That was illegal.

Mr. BUCK. Therefore, so far as the general public and consumers were concerned, for beverage purposes these brands had been in disuse from January 1920, to December 1933?

Mr. PORTER. Technically; yes, sir.

Mr. BUCK. What do you mean, "technically"?

Mr. PORTER. Technically there was no beverage liquor during that period, but I have a recollection that there was a good deal sold in America at that time.

Mr. BUCK. None of your brands were being bootlegged?

Mr. PORTER. No; they were all sold to the drug trade.

The CHAIRMAN. And you hoped there was no bootlegging by the drug stores?

Mr. PORTER. We hoped so. It was a very limited business, very limited, very small.

Mr. BUCK. To get to the point of that, the reputation of these brands was established many years ago?

Mr. PORTER. That is right.

Mr. BUCK. And it was established primarily by individual distillers; isn't that so?

Mr. PORTER. Yes; different distillers.

Mr. BUCK. Individual distillers as distinguished from a corporate group such as you have now.

Mr. PORTER. Oh, no; they were mostly owned by corporations. I don't recall any that were owned by individuals.

Mr. BUCK. What about Old Overholt?

Mr. PORTER. The history as I read it—I only know it as I have read it—it belonged to a man called Abraham Overholt, then it was bought by Mr. Mellon, and then it was sold to someone else, and then we bought it.

Mr. BUCK. And the brand was established by a man by the name of Overholt who was a distiller and more or less an artist in developing whisky and making whisky?

Mr. PORTER. Yes; 120 years ago.

Mr. BUCK. He isn't making the whisky now, is he? [Laughter.] So when he died, corporations picked up the brand and it has been kept in continuous use with the interruptions that I have mentioned, until now.

Mr. PORTER. That is correct.

Mr. BUCK. Is it necessarily true that the brand and type of whisky that was made by Mr. Overholt, which we might say established the reputation for this brand, is being made and bottled and sold under that brand name today?

Mr. PORTER. Yes; as nearly as it is humanly possible I should think it was, because the whisky has existed there for a great many years, and I presume with successive departures of one distiller and the coming in of another he has done the best he could to follow in the footsteps of his predecessor. He has always had the whisky there to follow. I presume as nearly as anything in 1938 it would be as it was 50 years ago. I imagine more nearly so; I imagine whisky is more nearly as it was 50 years ago than anything else that we have to do with, perhaps, in this modern life.

There have been very few improvements or changes in the art of making whisky.

Mr. BUCK. What about the difference between what is known as a continuous still. Did they have continuous stills in those days?

Mr. PORTER. No, sir.

Mr. BUCK. Does the type of distilling apparatus have a direct effect upon the type of the product?

Mr. PORTER. Yes; it would have; but a great deal of the best whisky is still not made by continuous stills. The Scotchman makes his whisky, and so does the Irishman, much the same way as he did many years ago; so do we.

Mr. BUCK. Do you make Old Overholt by the same distilling apparatus as 100 years ago?

Mr. PORTER. No; the apparatus has been renewed many times, but the operation is very similar.

Mr. BUCK. As a matter of fact, the picture is entirely different today in the distilling industry from what it was, say, when Old Overholt became a well known and established brand. Today it is a matter of big corporate business and enterprise, whereas in those days it was a matter of individual pride in the development of a kind of whisky, isn't that so?

Mr. PORTER. No; I don't think that is so at all. I don't imagine that there is any corporation in the whisky business today that is anything like as large as the company of which this old food company that I described this morning was the successor to.

Mr. BUCK. That was the accumulation of a trust over a period of years, wasn't it?

Mr. PORTER. I don't know what it was, but it was a larger company, had a great deal bigger capitalization, had a great deal more property, and as far as my study of the industry goes, I should say that it was as much in corporate hands before repeal as it is today.

Mr. BUCK. How many of the brands now owned by you were being produced for medicinal purposes during prohibition?

Mr. PORTER. Production during prohibition was nonexistent until the Treasury Department, I think about 3 or 4 years before repeal, decided that the legitimate stock of whisky for medicinal purposes was becoming perilously depleted, as they thought, so they issued a few permits to a few distillers to make a limited quantity of whisky, and we had two products of that kind and we were allowed, our

company, to make a limited amount of whisky during the few years before repeal. And other companies also had permits, of course. Otherwise, there was no production literally during the period from 1917 or something like that, or 1916, to repeal in 1933.

The CHAIRMAN. What were the two brands that you produced?

Mr. PORTER. I think, Senator, Mount Vernon, and we made a number of brands of Kentucky in one distillery. I can't tell you exactly. I could have that looked up for you. I know we made Mount Vernon and then, of course, Overholt was operating but we didn't own it.

The CHAIRMAN. You said your company was producing at—

Mr. PORTER (interposing). Two places, one in Kentucky and one in Maryland. We made a number of brands in Kentucky and one in Maryland.

The CHAIRMAN. You got two permits?

Mr. PORTER. I think so.

The CHAIRMAN. And what did you make?

Mr. PORTER. Mount Vernon in Baltimore and two or three brands in one distillery in Kentucky.

The CHAIRMAN. What were they?

Mr. PORTER. Probably Grand Dad, probably Taylor, probably Hill & Hill, probably Blue Grass, and several other whiskies of that kind made at one plant.

The CHAIRMAN. You say several others. Frankly, what I am trying to elicit from you is how many of these brands that we were talking about this morning were actually not being produced during the prohibition era. You must know that.

Mr. PORTER. Most of them were not being produced. I should think so, yes; it must be so.

The CHAIRMAN. So that actually the brand is significant from the point of view of its commercial value?

Mr. PORTER. Correct.

The CHAIRMAN. Of course, I suppose in the liquor business it is no different from many other businesses and in many other lines of commerce the public does attach value to a trade name.

Mr. PORTER. Very great value.

The CHAIRMAN. But the thought that is running through my mind is the extent to which the production of whiskies by four large distillers is different from the production of whisky under the old days before the trust came into existence by individual distillers who were themselves operating.

Mr. PORTER. I don't think it is any different really, Senator, except that the methods have changed in time—I mean, the country is different and methods of doing business are different, but I don't think the characteristics are otherwise different.

The CHAIRMAN. I probably haven't conveyed my thought to you. Is not the emphasis today upon merchandising rather than upon the manufacture of a particular type of whisky?

Mr. PORTER. No; I don't think so. I know in our own case we are very proud of what we make and its quality, and we spend much of our time on that. We are great believers in that in our own company.

The CHAIRMAN. I wouldn't want to ask you the question as to which of these brands you are the most proud. I will let that go. Will you pardon me for violating my rule?

Mr. BUCK. That is perfectly all right, Senator. Glad to have you do it. Mr. Porter, you, the corporation, spends considerable money in advertising each year?

Mr. PORTER. Yes; a large sum.

Mr. BUCK. I believe in 1938 according to the report you made to the committee's questionnaire you expended \$3,136,999. What particular brands have you emphasized in your advertising? Do you emphasize certain particular brands over others?

Mr. PORTER. Well, we advertise all the brands that we sell, practically speaking. We try to apportion our advertising intelligently as we can between the different brands, depending upon how much whisky we have of each to sell and how hard a task it is to sell it. In general we have spent a good deal of our money in advertising newer and less-known brands, and we have advertised the older and well-known brands consistently ever since we were permitted to after repeal.

Mr. BUCK. As a matter of fact, for the past year haven't you emphasized four particular brands—Old Taylor, Overholt, Old Grand Dad?

Mr. PORTER. Yes; and emphasizing there may not have been an advertisement run in which they have been grouped, I believe.

Mr. BUCK. I don't mean an advertisement but a campaign of national importance.

Mr. PORTER. Yes; exactly, yes.

Mr. BUCK. And those are all bottled-in-bond whiskies?

Mr. PORTER. Those four; yes, sir.

#### PRICES OF 2-YEAR-OLD AND 4-YEAR-OLD WHISKIES

Mr. BUCK. I might here, Mr. Porter, go a little out of the routine that I have set up and ask you this question. Let's assume that a 2-year-old whisky sells to the consumer for, say \$1.80 and a 4-year-old whisky sells to the consumer for \$3.70, the same kind of whisky, straight bourbon whisky, we will say. How would you explain by the economics involved the difference in price to the consumer between those two products?

Mr. PORTER. I think it is very hard to explain by economics what the consumer is willing to pay, but—

Mr. BUCK (interposing). I didn't understand that.

Mr. PORTER. I say I think it is very hard to explain by economics what the consumer is willing to pay. But I can say this, that there are bottled-in-bond whiskies today that sell, roughly speaking, at \$2 a bottle, and others that sell for very nearly \$4 a bottle, and they are both straight whiskies, we will say.

Mr. BUCK. Yes; but I am speaking of two whiskies produced by the same distiller, same company, same kind.

Mr. PORTER. Oh!

Mr. BUCK. All paying the same tax.

Mr. PORTER. That is the pleasure of the distiller, I presume, the seller of that merchandise, to make those two different prices. I didn't know just what that was. I don't know whether I could answer it anyway. I couldn't explain that.

Mr. BUCK. You say it is the pleasure of the distiller to make those prices?

Mr. PORTER. Yes; certainly; he sets his own price. We set our prices; yes.

Mr. BUCK. Are your prices based on, or do they bear any relation to, cost of the product?

Mr. PORTER. Yes; of course they bear a relation to cost. Everything one sells must bear a relation to cost or we would soon be in serious difficulty. But obviously, as a merchant you endeavor to get as good a price as you can for your product, and some things have to be sold very close to cost and on other things you can get a very wide margin of profit at times.

Mr. BUCK. Then do I understand your answer to that question to be that it is a matter of the distiller fixing the price on his product, and it is not a matter of pricing based upon cost?

Mr. PORTER. I think that is about the only thing that we are allowed to do, fix our prices—yes, fix our prices.

Mr. BUCK. I agree with you.

Mr. PORTER. Maybe that won't be long.

Mr. BUCK. Now let's assume that as a matter of fact the only difference between the cost of the two products is the cost of carrying the whisky 2 years longer, isn't it? There is no difference in the taxes involved, there is no difference in the cost of aging for the period aged.

Mr. PORTER. No; all whisky costs pretty much the same. There isn't any very great difference if it is honestly made and well made.

Mr. BUCK. What does it cost to produce a gallon of whisky at the still?

Mr. PORTER. Forty or fifty cents a gallon, something like that. Isn't that right? I don't know.

Mr. BUCK. You are the distiller, sir.

Mr. PORTER. It depends on what you are going to put into the gallon of whisky, if you are going to count cooperage.

Mr. BUCK. I mean at the distillery.

Mr. PORTER. The raw whisky, without anything to put it in?

Mr. BUCK. That's right.

Mr. PORTER. Probably about 30 cents a gallon, I should say.

Mr. BUCK. In operating these many distilleries, don't you as a matter of fact know the cost of producing a gallon of whisky?

Mr. PORTER. We have the most elaborate cost records; yes, indeed. I am just giving you an off-hand opinion. I say about 28 cents a gallon. There are very many quick ways of figuring it, because spirits are made from molasses or corn.

Mr. BUCK. I am talking about straight bourbon whisky produced in Kentucky.

Mr. PORTER. Corn varies very much in price. Today corn is very cheap.

Mr. BUCK. It hasn't varied much in the last 4 years, has it?

Mr. PORTER. Hasn't varied much in the last 4 years? I should say it had. Heavens!

Mr. BUCK. I didn't know the farmer had got anything in the last 4 years.

Mr. PORTER. He used to get 80 or 90 cents or a dollar a bushel for corn. Today he is getting 46 cents.

Mr. FERGUSON. How many gallons can you make out of a bushel of corn?



Mr. PORTER. Some of you experts will have to tell me that.

Mr. BROWN.<sup>1</sup> Four and one-half.

Mr. PORTER. Four and one-half, I am told.

Mr. BUCK. Let's assume it costs you 28 cents a gallon to make it.

Mr. PORTER. Is that a fair figure?

Mr. BUCK. I don't know; I am not an expert on the thing. It costs the same thing to produce a gallon of bottled-in-bond whisky at the distillery, off the distillery, as it does if the whisky is sold at 2 years of age, doesn't it?

Mr. PORTER. If it is of the same quality, exactly the same.

Mr. BUCK. And both classes of whisky would pay the same Federal and State taxes?

Mr. PORTER. Exactly.

Mr. BUCK. Exactly the same, regardless of whether it is 2 or 4 years old?

Mr. PORTER. That's right.

Mr. BUCK. Now, you say you cannot justify the differential between the two prices to the consumer as a matter of economics; you think it is a matter of having the distiller fix his own price on the goods. Is that true?

Mr. PORTER. No; I didn't say I couldn't justify the difference in price between the two. You asked me as a matter of economics if I could explain why somebody paid \$4 for one thing and \$2 for another, as I recall your question. The difference, the reason that someone might pay more for one<sup>2</sup> product than another would obviously have to do with the brand, and the quantity, and the age.

Mr. BUCK. If one is \$4 and one is \$2?

Mr. PORTER. If they are sold under the same brand?

Mr. BUCK. Oh, no; of course not. You know you don't sell the same brands under two ages.

Mr. PORTER. I don't quite get the point, sir. I'm sorry.

Mr. BUCK. I am asking you these questions because I understand you want to go today.

Mr. PORTER. I would appreciate it.

Mr. BUCK. I shall submit the chart entitled "Consumer Cost of Four-Year-Old and Two-Year-Old Whiskies."

(The chart referred to was marked "Exhibit No. 407" and is included in the appendix on p. 2685.)

Mr. BUCK. Mr. Porter, those figures I am advised are approximately correct, and they are priced on the market today, this week. It is the same whisky and distilled by the same company, straight bourbon whisky, both 1 quart, 100 proof.

Mr. PORTER. One hundred proof?

Mr. BUCK. Yes.

Mr. PORTER. Is it a secret what this is?

Mr. BUCK. I just didn't want to disclose brands. I could.

Mr. PORTER. No, no.

Mr. BUCK. Could you explain to the committee where the economics involved in the manufacture and distribution of those 2 quarts of whisky—

The CHAIRMAN (interposing). Mr. Buck, before the witness answers, may I suggest that it might be a good plan for you to explain

<sup>1</sup> Mr. John P. Brown, attorney, Federal Alcohol Administration.

to the committee the making of this chart and what it undertakes to represent.

Mr. BUCK. I might say, Mr. Chairman, that the price represents the price in New York City and that market was selected, because it would show one of the highest State taxes; I wanted to get the highest one so the taxes would be high.

The CHAIRMAN. Now, the first column, as I read the chart, represents the cost to the consumer of 4-year-old whisky, \$3.79.

Mr. BUCK. That is right.

The CHAIRMAN. Which you divide into three items; namely, 81 cents to include all Federal and State taxes.

Mr. BUCK. Yes, sir.

The CHAIRMAN. \$1.46 to cover the cost and the profit to the distiller, and \$1.52 to cover the wholesaler's and retailer's share in the consumer's dollar.

Mr. BUCK. Yes; that is on one bottle of whisky.

The CHAIRMAN. Now was this chart prepared from the actual statistics on a particular brand?

Mr. BUCK. Yes; the chart is prepared from quoted prices in the market.

The CHAIRMAN. In other words, it is an actual case and not a hypothetical case.

Mr. BUCK. That is the fact, sir.

The CHAIRMAN. And then the other column represents the cost to the consumer of the same whisky except that it is 2 years old instead of 4 years old.

Mr. BUCK. That is true. The only difference there is this. The 2-year-old whisky was originally 90 proof. We have figured it on a basis of 100 proof to make it correspond in dollars and cents.

The CHAIRMAN. Now what is your question?

Mr. BUCK. The 90-proof bottle sold at \$1.89. We put the value at \$1.92 by raising the proof.

The CHAIRMAN. What is the question to the witness?

Mr. BUCK. The question to the witness is whether or not he can show the committee where by the economics in the manufacture and production and distribution of these two bottles of whisky, the consumer should be paying one price for 2-year-old whisky and another price for the 4-year-old whisky.

Mr. PORTER. I don't think I can explain by economics why the consumer pays one price or another, but in an effort to answer your question as frankly as I can, I can only say that it seems to me you have taken in the column here of the bottled-in-bond whisky the maximum price being asked today by any manufacturer for the finest bottled-in-bond bourbon whisky in the highest price market.

Mr. BUCK. I understand that is your whisky, sir.

Mr. PORTER. I didn't know that, but that \$3.79 looks like an all-time high at the moment. That carries with it whatever demand for value the public may give to such a brand. Now, in the other column you have got a 2-year-old straight bourbon whisky which, as I understand it, has no great appeal for a brand name, and people, as you know, buy a package of cigarettes or anything else because of a brand name, and because they think they are getting, or are getting, something of quality. This you just stated, as I understand it, was

a 90-proof whisky, and you have done some mathematics with it and made it 100 proof.

Mr. BUCK. We had figured it on the basis of 90.

Mr. PORTER. But the consumer who is buying 90-proof whisky, Mr. Buck—I don't think you can translate that price around as to what you think he might have paid if he was buying 100-proof whisky. Furthermore, is that, as a matter of fact, a Kentucky bourbon whisky?

Mr. BUCK. I am told it is a straight bourbon whisky.

Mr. PORTER. Made where?

Mr. BUCK. Illinois. The one was distilled in Illinois. Is that an answer?

Mr. PORTER. I think it is an answer; yes, sir.

Mr. BUCK. What economics would make it an answer? Could you demonstrate the economics involved?

Mr. PORTER. Only that it is generally recognized that bourbon whisky made in Kentucky has a higher value than it has in any other bourbon State.

Mr. BUCK. Does it cost any more to produce it?

Mr. PORTER. No, sir. Well, it costs a little more because the State of Kentucky, recognizing that value, imposes a great many kinds of special taxes and has for upward of 30 or 40 years, on whisky in Kentucky.

Mr. BUCK. How much do all the State taxes in Kentucky amount to on that quart of whisky? As a matter of fact, it is  $1\frac{1}{2}$  cents, isn't it?

Mr. PORTER. I couldn't say. Your State, county, hospital, production taxes—I don't know what they all amount to. They are rather substantial.

Mr. BUCK. Five cents a gallon.

Mr. PORTER. Oh, no; I think they are very much more than that. I am not certain. The Kentucky Legislature has several times had a production tax. I don't know where it stands today. Somebody here must know that.

Mr. BUCK. I am advised it is 5 cents a gallon.

Mr. PORTER. Well, that is right.

Mr. BUCK. That would be  $1\frac{1}{4}$  cents a quart.

Mr. PORTER. Except for that, it costs no more to make whisky in Kentucky than in Illinois.

The CHAIRMAN. May I interrupt, Mr. Buck, violating the rule? Mr. Porter, just observing the middle item in each of these columns, in the 4-year-old column the amount assigned to distiller's cost and profit is \$1.46. In the 2-year-old column the amount for the same items is only 33 cents. Now, in your opinion as an expert in the production of whisky, what is the actual difference in cost between producing 4-year-old whisky and 2-year-old whisky by the distiller?

Mr. PORTER. In kind of cost that could be actually accounted for, the only difference there needs to be would be the longer period of holding it.

The CHAIRMAN. What cost goes into that?

Mr. PORTER. It would not be very great. It need not be very great.

The CHAIRMAN. Is it very great?

Mr. PORTER. No; I would say not.

The CHAIRMAN. How great is it?

Mr. PORTER. Well, if you make a high-grade whisky and kept it for 2 years and had sufficient money to carry it for 2 years more, all you would have to figure would be insurance, storage, taxes, and interest on your money.

The CHAIRMAN. What do you estimate would be added actually to the cost of the whisky by that 2 years—to the actual cost of producing, the cost to the distiller?

Mr. PORTER. A very few dollars a gallon would cover that, a very small amount.

The CHAIRMAN. Then the difference between the items in these two columns would have to be assigned principally to profit; is that correct?

Mr. PORTER. This item in the smaller column, I would say the producer, if that thing is correct, was probably losing money. No; that is per bottle. He would probably be just about getting along.

The CHAIRMAN. Would it be a correct assumption for me to make that the distiller gets a much larger profit, a large profit on the 4-year-old, than he does on the 2-year-old?

Mr. PORTER. Oh, yes. In that particular brand, Senator, that particular sample, the producer is making a very large, what you might say was perhaps an unusual profit on that particular sample, which is the highest price, the most expensive brand, or the highest priced whisky which happens to be selling at the moment.

The CHAIRMAN. Is that typical?

Mr. PORTER. No; it is not typical; and if I might, I would like to state here this bottled-in-bond whisky we are discussing constitutes probably less than 6 percent of the whisky that is consumed in America. It is only a trifling thing in the whole story, 6 percent, I would guess, not more than 7 percent, or all that the distilling industry did in the year 1938. Among the American public, for instance, the consumption of bottled-in-bond in '38 was 5, 6, or 7 percent of the total whisky sold.

The CHAIRMAN. I have heard it said that a lot of whisky much less than 2 years old is sold, too; probably not by National Distillers.

Mr. PORTER. Yes; so you are speaking of a very small part of the total industry.

The CHAIRMAN. That may be, but the question before us was this particular type at this time.

Mr. PORTER. That is a very large profit.

The CHAIRMAN. It is accurate so far as this particular type of whisky is concerned, is it?

Mr. PORTER. I never saw it before. I suppose it is.

The CHAIRMAN. You wouldn't question it?

Mr. BUCK. It is your whisky, Mr. Porter.

Mr. PORTER. No; it must be right. It must have been taken from the information we furnished Mr. Buck. He has put it in a chart, but the one on the right I am not clear on.

The CHAIRMAN. So as to make the matter perfectly fair, I observe the price which is added to the 2-year-old whisky for the wholesaler and the retailer is also considerably less than the price which is added to the 4-year-old whisky.

Mr. PORTER. Oh, yes.

The CHAIRMAN. In your opinion is that very large, extra large, profit for the 4-year-old justified upon the basis of cost, or justified on the basis of age?

Mr. PORTER. Well, I don't think that you can say maybe that it is justified on the basis of the cost of that particular bottle of whisky; no; but I believe in the long run that it is not an unfair price. Prices are gradually declining as the whisky becomes more plentiful and those prices will probably decline further. They are declining.

The CHAIRMAN. All right, Mr. Buck, I am finished.

Mr. BUCK. Right here, Mr. Chairman, I would like to have the committee again refer to the chart heretofore exhibited showing the holdings of the 4-year-old and over whiskies.

Mr. DAVIS. Mr. Porter, you referred to a 4-year-old straight bourbon whisky to the consumer as being at the peak price. Will you explain the price of your company to the wholesaler of your different brands of 4-year-old bourbon whisky?

Mr. PORTER. Explain the price?

Mr. DAVIS. Tell what the price is. In other words, if \$1.46 is your top-notch price, what are your other prices that differ from that?

Mr. PORTER. Of course, we sell in cases, and this is a bottle price to a consumer in a package store in New York. The prices, I think, of our two bottled in bond bourbon whiskies, which apparently are what this bottle is one of, are about \$23 a case today. Rye whiskies, I think, are about \$21; that is the price that we sell them to the wholesaler, I think.

Mr. DAVIS. Don't you sell all of your bottled-in-bond 4-year-old whisky by the case?

Mr. PORTER. Yes, sir; yes, sir; we have to by law. It is all sold to wholesalers by the case.

Mr. DAVIS. When you gave a price of \$21 for your 4-year-old rye whiskey in bond, what did you say was the price of the bourbon 4-year-old?

Mr. PORTER. About \$2 more, as I recall it.

Mr. DAVIS. \$2 more?

Mr. PORTER. About.

Mr. DAVIS. Is that your minimum price or average price?

Mr. PORTER. That is the price.

Mr. DAVIS. The price.

Mr. PORTER. Yes.

Mr. DAVIS. And there are 24 quarts in the case?

Mr. PORTER. Twelve quarts in the case, 24 pints, as a rule.

Mr. DAVIS. Are those full quarts or fifths?

Mr. PORTER. They might be either, depending on how the particular whisky is packed.

Mr. DAVIS. I meant for which you receive \$21 a case of 12 bottles or \$23 for bourbon. Are those full quarts or fifths?

Mr. BUCK. Here is one of your price lists, Mr. Porter. It might help you.

Mr. PORTER. Those are quarts, sir.

Mr. BUCK. As I understand it, Judge Davis is asking you the case price on all of the bottled-in-bond goods.

Mr. PORTER. Yes.

Mr. BUCK. Do you wish to read them in the record?

Mr. PORTER. Not unless somebody wants them. I shouldn't think so. It seems to be very voluminous.

Mr. DAVIS. I think in this connection it might be informative to do it.

Mr. PORTER. There are pages of it here.

Mr. BUCK. Just the bottled in bond, as I understand the question.

Mr. DAVIS. Yes; that is sufficient.

Mr. PORTER. Was this filed with you?

Mr. BUCK. We have it anyway; I don't know whether it was filed or not. We may have gotten it from some wholesaler.

Mr. PORTER. This is quite old; September 6, 1938.

Mr. BUCK. That isn't so long ago.

Mr. PORTER. Do you wish all this read, sir?

Mr. DAVIS. No.

Mr. BUCK. Just the bottled in bond.

Mr. DAVIS. It was just suggested that you might let the reporter write into the minutes all of your bottled-in-bond whisky that you sell by the case.

The CHAIRMAN. The witness has marked certain items in response to Judge Davis. Won't you see that it is properly received? Of course, the witness doesn't know to whom he should hand it. Take it, Mr. Buck, please. Let's identify what he has marked.

Mr. BUCK. The marks are on Old Taylor, straight bourbon whisky, bottled in bond, 100 proof, quarts, price bulletin No. 4, September 6, 1938; \$24.25; fifths, \$19.65; pints, \$24.85; half pints, \$25; one-tenth pints, \$29.05. Mount Vernon, Maryland straight rye, bottled in bond, case price, quarts, \$21.50; fifths, \$17.45; pints, \$22.10; half pints, \$22.85; one-tenth pints, \$21.50.

Mr. DAVIS. That is 4-year-old that you are quoting?

Mr. BUCK. That is Baltimore price. Cincinnati prices are a little different, Louisville prices are a little different, and so on. That is the primary price.

The CHAIRMAN. If I recall, you testified a little bit earlier that by and large the cost per gallon of making whisky was about 28 cents.

Mr. PORTER. That was just a rough guess; but yes, sir, I did so testify.

Mr. BUCK. Not over that?

Mr. PORTER. I was just guessing that; I would be glad to get an accurate figure for you. I think that is a fair figure; yes, 28 or 30 cents. It fluctuates with the price of grain very much.

Mr. DAVIS. Mr. Porter, in saying in response to Commissioner Ferguson that you got about 4½ gallons per bushel of corn, is that sweet-mash process?

Mr. PORTER. It doesn't vary very much between either process; yes, sir.

Mr. DAVIS. Your company doesn't make any whisky by the sour-mash process, does it?

Mr. PORTER. I am not certain whether we do today or not. I think probably not.

Mr. DAVIS. How much gallonage do you average on rye? The same?

Mr. PORTER. You mean per bushel of rye?

Mr. DAVIS. Yes.

Mr. PORTER. It is about the same, I think, sir.

The CHAIRMAN. Now, would it be proper to say that whisky of the character represented in this 2-year column could be manufactured at approximately 28 cents a gallon?

Mr. PORTER. Yes, sir.

The CHAIRMAN. And therefore, that being a representation of a quart, the allocation to the cost of manufacture of this 2-year-old would be approximately 7 cents?

Mr. PORTER. Yes.

The CHAIRMAN. And that would mean on the 2-year-old whisky that the profit was 26 cents?

Mr. PORTER. Twenty-eight cents.

Mr. BUCK. Senator, you have to add in the aging there.

The CHAIRMAN. We will get to that. At 28 cents a gallon, I asked the witness if it was a proper inference—

Mr. PORTER (interposing). Four quarts to a gallon; it would be 7 cents.

The CHAIRMAN. And you answered yes.

Mr. PORTER. Yes, sir.

The CHAIRMAN. Then I subtract 7 cents from 33 cents, which is the amount there, leaving 26 cents, the distiller's profit.

Mr. PORTER. It isn't exactly profit, you see, because I think when I was asked—in the first place, Mr. Buck asked me, as I recall it, what this whisky would cost coming out of the end of the still, if it wasn't to be put into anything, as I recall it. We have to put it in a barrel, and the barrels cost five or six or seven dollars. Of course we have to have a distillery and we have to have all the different things that go with a manufacturing plant.

The CHAIRMAN. I assume the cost of the distillery goes into the original 28 cents.

Mr. PORTER. I don't know; I would say that was just the manufacturing cost of the plant without putting in interest, or perhaps other items that would belong in there. Nor do we carry the cost of the barrel or any of the general overhead cost.

The CHAIRMAN. What would be your estimate of the various items that go into the cost?

Mr. PORTER. I would think if you got around nearer 50 cents a gallon it should come nearer a fair figure that might cover these different things, including cooperage, instead of just the cost of making the alcohol.

The CHAIRMAN. Fifty cents a gallon would include the cooperage?

Mr. PORTER. Yes, sir.

The CHAIRMAN. That would mean the cost would be 12½ cents?

Mr. PORTER. Yes.

The CHAIRMAN. If we subtract that, we have 20½ cents for your profit.

Mr. PORTER. Then, you see, Senator, you still have to put that whisky in a bottle.

The CHAIRMAN. Let's get all the little items you are going to cut out. How low will the profit get?

Mr. PORTER. Roughly speaking, without any papers in front of me, I would offhand, as I said before, imagine that this second column, where there was 33 cents, would not have any large amount

of profit in that. I think you just would about get along on that. It is a sort of horseback guess.

The CHAIRMAN. Making your horseback guess, do you want us to assume now that 30 cents per quart is the actual cost?

Mr. PORTER. No, sir; I don't think that I would. I think if the committee wishes some precise data on that that ought to be a little more carefully gone at. I would hate to be quoted without reference to data as to actual costs.

The CHAIRMAN. I know you can't give the exact figures now, but I am trying to make some sort of an approximation. Would 33 cents all cost be too high an estimate?

Mr. PORTER. For a bottled whisky?

The CHAIRMAN. This is 2 years old.

Mr. PORTER. That is \$3.60 for a case, isn't it, Senator; and we have to have bottles and cases and caps and cartons and whisky. There is very little profit in that figure, very little; very little, if any.

The CHAIRMAN. All right. Let's assume, for the sake of this presentation, now that there is no profit, that 33 cents represents all your cost. Does that cover it all? You wouldn't want to put any other items in? You have your cooperage and you have your cartons; you have your bottles and you have your insurance. The distiller is not selling this at a loss.

Mr. PORTER. Well, I don't know. It looks pretty bad.

The CHAIRMAN. Let's assume that he is losing 2 cents on each quart. We will make it 35 cents. How will that do?

Mr. PORTER. No; there is something all wrong with this. I don't think—you can't get by with 33 cents.

The CHAIRMAN. Forget that; never mind. Let's get down to facts. If I were to say that 35 cents were an item to cover the cost of manufacturing 2-year-old whisky in all of the process, would that be an overstatement?

Mr. PORTER. How much again?

The CHAIRMAN. 35 cents. This column said 33 cents; I am adding 2 cents.

Mr. PORTER. Really, Senator, I feel the question is so important and I am not—I am anxious——

The CHAIRMAN (interposing). Of course you are. You see just where I am leading now. You are becoming uncertain. You weren't uncertain a moment ago when you testified 28 cents a gallon.

Mr. PORTER. Yes; but, Senator, 28 cents a gallon—what I was saying then was the cost of converting corn into alcohol or whisky without getting it into containers.

The CHAIRMAN. Recognizing all of those qualifications, I added enough to make it 50 cents.

Mr. PORTER. Yes; well, 50 cents——

The CHAIRMAN (interposing). And that, of course, meant 12½ cents a quart.

Mr. PORTER. Getting a bottle price down from a case price requires some little calculations. We figure cases——

The CHAIRMAN (interposing). Observe now what we have done, Mr. Porter. You said 28 cents a gallon. I said 50 cents a gallon.

Mr. PORTER. Yes.



The CHAIRMAN. Fifty cents a gallon would be 12½ cents a quart. You said that didn't cover your cartons and a few other items, so I went all the way with you and went to 33 cents and took everything as to cost, and you weren't satisfied as to that, so I added 2 cents more; so you are in a position now of having a quart of whisky upon which you have lost 2 cents. Now, is that too much?

Mr. PORTER. How much is this quart now, 33 cents?

The CHAIRMAN. I have it up to 35 cents.

Mr. PORTER. That is \$3.60 a case. You are endeavoring to find out whether I think that 35 cents—

The CHAIRMAN (interposing). No; this is my line of thought. Assuming that the cost of producing 2-year-old whisky is 35 cents a quart and that cost includes everything imaginable, I have in mind your testimony in response to an inquiry of mine that aging this whisky 2 years more would add only a few cents to it.

Mr. PORTER. That is correct.

The CHAIRMAN. So if this 2-year-old should cost 35 cents, which means you are selling at a 2-cent loss, and instead of a few cents we were to add 10 cents to this, making 45 cents, the cost of the 4-year-old whisky, you would on the basis of this exhibit be selling your quart of whisky at a profit of \$1.01 according to this tabulation, isn't that correct?

Mr. PORTER. Yes; that is right.

The CHAIRMAN. What enters into the making of that price to the consumer?

Mr. PORTER. Do you mean the price to the consumer?

The CHAIRMAN. What justifies that profit of \$1.01?

Mr. PORTER. To the consumer?

The CHAIRMAN. Congressman Williams calls my attention that that is the price to the wholesaler. What justifies—on your testimony with respect to the cost of making the whisky and the small cost of aging—a profit to the distiller on his sale to the wholesaler of \$1.01? In reaching that figure of profit I have given you all of the best of it in every estimate all the way down the line.

Mr. PORTER. You are referring now to the cheaper whisky?

The CHAIRMAN. To the 4-year-old whisky. Your profit now is figured at \$1.01 a quart.

Mr. PORTER. You ask what the justification is. Those whiskies have been in very limited quantity and the prices of them—

The CHAIRMAN (interposing). Before you go any further will you let me tell you what is in my mind. This liquor industry is not standing here by itself so far as I am concerned, and I am sure so far as any member of the committee is concerned. What we are trying to find out is what is the effect of this concentration which has been demonstrated here upon the whole economic picture? Does the concentration of ownership, of production, of control—four companies controlling more than 50 percent of this trade? Does that concentration have the effect of raising the price to the consumer and of closing out other competition, or does it not?

Now that doesn't cast any reflection upon you, Mr. Porter, because this noon between the time of the adjournment of this committee and its reassembling, I was discussing the problem of sugar. It is a very important problem to our people out in Wyoming. In sugar there is an overproduction just as there appears to be an overpro-

duction in whisky. There is more sugar than the farmer can sell at the cost of production. I mean he can't derive the cost of production out of the sugar beets and the sugarcane that he sells. The world is just crowded with sugar that is rushing into this market here and we are having a terrible time getting any profit for the little fellow, for the masses. There is more coal than can be mined and sold with a profit, the big coal companies complain. The coal miners complain. The coal dealers complain. They can't make money.

That is one of the factors that goes into our very distressing economic problem.

The farmer who produces wheat and the miller who makes the flour are facing the same identical problem, and I could list one after another of the commodities upon which our economic life depends of which this is true, and in every instance we find that the distributing factor has been concentrated. The producing factor, so far as agricultural products are concerned, is not concentrated; individuals are operative there; small-business men, and I assume some small distillers, complain to Congress that they can't get credit. It is one of the pressing problems of today. We want to find out to what extent the integration or concentration of these large companies affects that. That is all we are looking for. You understand the purpose, therefore, of my question.

Mr. PORTER. Surely.

The CHAIRMAN. Therefore, I want to know if four big corporations, as indicated in this chart that was issued here yesterday—what chart was that. Mr. Buck, that showed the production?

Mr. BUCK. It is shown in several ways.

The CHAIRMAN. In "Exhibit No. 400" it shows the production of whisky in the United States by four companies compared with the total.

Mr. BUCK. "Exhibit No. 399" also shows the four companies' production, 60,000,000, as against 94,000,000.

The CHAIRMAN. "Exhibit No. 400" shows that in 1938 four companies produced 64 percent of all the whisky in the United States, and "Exhibit No. 399" shows that these four companies in 1938 had 20 out of 97 distilleries and that they produced 60,400,000 tax gallons as compared with 94,990,000 tax gallons of the entire industry. All this has an effect upon price. That is what we are trying to determine, and then in turn what the general effect of this is upon the entire economy. Does a large corporation which gains control of the distributing facilities of any commodity, be it sugar or coal or liquor or what not, or livestock, for example, by that simple fact acquire the power to levy a higher price upon the consumer than would otherwise be levied, and what is the effect upon employment and general business? That is what we are trying to get at. That is why I am trying to find out about these prices. Now would you be good enough to give us your opinion of it?

Mr. PORTER. As far as this liquor industry is concerned, it is my honest opinion that the existence of four companies which have been picked out who, as you say, do 60 percent of the business, the four largest companies doing 60 percent, we will say, I do not think results in an increase of price or a maintenance of price. Those four companies are in the keenest possible competition. I think the high price indicated in that chart that you were just looking at was largely due

to the fact that those are special brands of which there are relatively small quantities available and which sell at relatively very high prices and constitute but a fraction of the entire market. I believe that the bulk of the whiskeys being sold to the American public today, the great bulk of them, are being sold at a profit to the wholesaler, the retailer, and the distiller not more than sufficient to give him hardly a reasonable return.

The CHAIRMAN. I was impressed with your testimony this morning that your company got completely out of debt in 1929, which was the year in which most of the people in the United States found themselves going very deeply in debt. That was the year of the big collapse.

Mr. PORTER. We were very lucky to sell at peak prices.

The CHAIRMAN. There were particular reasons why it should be so. Repeal came along and of course there was a great rush to consume the legal liquor, so to speak, and various other circumstances. But here again we have chart 3A,<sup>1</sup> which shows the total of production, and I observe that in 1936 the total production of all of the companies was 245,470,000 tax gallons. In 1937 that had dropped off to 155,670,000, and in 1938 to 94,990,000. To what do you ascribe that remarkable drop in production?

Mr. PORTER. Well, you see, following repeal, as soon as many distillers could get into operation they started to lay up a supply of whisky for aging, and that reached its peak in that year, and then after that they gradually slowed down. For the last 2 years our own company has been producing just about an equal amount to what it has been selling. Our own company does not more than 15 percent of the Nation's business—less than that.

The CHAIRMAN. And how about your price all this time?

Mr. PORTER. Our prices have all the while been coming down.

The CHAIRMAN. Have they been reduced in the same proportion that the production has been reduced?

Mr. PORTER. That is a little hard to say. They have come down very materially in this 4-year period.

The CHAIRMAN. Isn't it a matter of fact that the prices have not come down in anything like the proportion that the production has come down?

Mr. PORTER. Well, if you want to talk about bottled-in-bond whisky for example, the same whisky on the chart, we were getting \$75 and \$80 a case for it 4 years ago; this same Old Taylor whisky or Mount Vernon whisky, in such small amount of it as it was, was retailing at \$75 a case, and now it is down to \$24. Two or 3 years ago, it was \$40 a case.

Mr. DAVIS. What was the age of that that you got \$75 or \$80 for?

Mr. PORTER. It was a good deal older whisky.

Mr. DAVIS. It was bottled in bond before the prohibition amendment?

Mr. PORTER. It was made before, but it was the same brand that was bottled in bond.

The CHAIRMAN. Now we have chart 5,<sup>2</sup> which shows in another way the same reduction of operations. Your capacity is much greater, though, than it was in 1935. For example, in 1935 the an-

<sup>1</sup> "Exhibit No. 395," appendix, p. 2676.

<sup>2</sup> "Exhibit No. 398," appendix, p. 2677.

nual capacity of all distilleries was 303,660,000 tax gallons; in 1938 it had increased to 434,986,000 gallons. But production in the same time decreased from 149,000,000 to 102,000,000, though the number of distilleries had increased from 79 to 108, and the thought that is running through my mind is whether, by any possibility, the liquor industry as a whole was reducing production in order not to have so great a supply of liquor that the price would be utterly lost.

Mr. PORTER. No; that is utterly—I'm sorry to say it is not true, I am afraid. The stocks of the country have steadily increased, as you will see from Mr. Buck's chart 2A, so that they are now 466,000,000. In spite of that fall-off in production, the total stocks, as he calls them, or the inventories, are larger than they have ever been in the history of the Nation, and the curtailment of production has been, I imagine, largely the result of the distillers feeling that those stocks were becoming more than ample, or ample.

The CHAIRMAN. The stocks were increasing; the production was in excess of consumption.

Mr. PORTER. It still has been.

The CHAIRMAN. So naturally you were driven to reduce your production in order that your price should not become low. Is that right?

Mr. PORTER. Well, if that had been one individual, but we have a completely competing industry, and if one distiller felt that if he made his own particular kind of whisky and had a market for it, he wouldn't care much what the other man did. It has been impossible; there is no way of controlling the production to suit the demand and to suit the price. For instance, we have kept on replenishing the stocks of these particular brands that you have been talking about, irrespective of whether the stocks of the whole country have increased or decreased, believing and hoping we could sell them.

The CHAIRMAN. But despite this constant increase of the stocks on hand as indicated by chart 2A, nevertheless on this 4-year-old whisky you are apparently making a profit of at least \$1 per quart.

Mr. PORTER. Yes.

The CHAIRMAN. I was using the figure based upon the cost.

Mr. PORTER. That is, you see, only a trifling fraction of the total. That particular thing has been picked out of hundreds and hundreds of brands as the maximum topnotch price.

The CHAIRMAN. Now, giving you the benefit of every cost that you suggested, we reached the conclusion that on a quart of this 4-year-old whisky you were making \$1.01 profit to the distiller, and the price to the consumer was \$3.79, so that the distiller's profit alone, with every consideration granted to you on the basis of cost, was much more than 25 percent of what the consumer paid.

Mr. PORTER. I can only tell you, Senator, that over all, over a period of time, the net earnings of our particular company, after taxes, constitute during this period of considerable prosperity following repeal in the liquor industry, not much over 10 or 12 percent, I shouldn't think, roughly speaking, of our gross sales, a very good return as businesses go, but one that is diminishing, and during that period we have had to invest very large sums of money to build up an industry which was nonexistent. I mean, we had to rebuild all of

the distilleries—I speak of the whole industry—and put aside this large stock of whisky for maturing, and the over-all return during this 5-year period of our company, or of all the companies, the total sales, if they were taken in volume, and the net profit on those sales, I think would show what would be called a very reasonable return in a very competitive industry, and a constantly diminishing one.

The CHAIRMAN. To what do you ascribe the fact that four companies dominate this industry?

Mr. PORTER. Well, it is very hard to say. You are speaking of industries. In the cigarette business there are four or five big cigarette companies. I don't mean to compare our industry with some of these much larger ones, because the liquor industry is a relatively small one, but it seems very much typical.

The CHAIRMAN. It is characteristic of all industry.

Mr. PORTER. I wouldn't know how to account for it. I know that our company, the one that I represent, had a very much larger interest in the industry, as I think I brought out, at the time of repeal than we have today, and other companies are growing, and I would say, in general, competition had materially increased.

The CHAIRMAN. To what do you ascribe this fact, this obvious fact, that four companies control much more than 50 percent of this business?

Mr. PORTER. I don't know how to ascribe it excepting it is there, and it is more or less typical, as you say, of American industry. Of the four companies, the other gentlemen are here to speak for their own companies. I know our company when repeal came had about 60 percent of the whisky in the country.

The CHAIRMAN. Of course, the testimony shows, and I think it is a fact, that before prohibition there had grown up what was known as the Whisky Trust. It was investigated as such upon numerous occasions and there were reports on it.

Mr. PORTER. That was way back in the nineties.

The CHAIRMAN. That was way back in the nineties, yes; and I suppose at the time of prohibition there was, as the result of those operations and that concentration, a concentrated ownership of the liquor which was in bond, isn't that true?

Mr. PORTER. Yes.

Mr. BUCK. That doesn't amount to a thing, Senator; in 1933 there were only a few million gallons left in the United States.

The CHAIRMAN. I see. Is it your view that this industry started, as it were, from scratch, after repeal?

Mr. PORTER. No; I don't think that is quite true, because if you have a cornerstone you can build quite a house on it, and if you are there first, you get quite a start.

Mr. BUCK. You didn't have any stocks for a cornerstone in proportion to the country's demand.

Mr. PORTER. No; but such stocks that existed were made the best use of to maintain those brands which had value.

Mr. BUCK. I agree with that.

Mr. PORTER. That is what I am trying to bring out, brands, of which there was a small quantity were used to the best advantage to maintain the quality of older brands.

The CHAIRMAN. Do you think the concentration in the hands of the four big companies was based upon their ownership of the brands?

Mr. PORTER. Well, I think our company, perhaps, and the Schenley companies, in addition to American, was based to a considerable extent upon ownership they had at the time of repeal, on existing facilities, stocks, brands, and properties.

The CHAIRMAN. How much is due to the acquisition by these companies of the existing facilities?

Mr. PORTER. I should say very little. Our company has acquired, except for the Overholt and Large plants which I described, which were acquired just before repeal, nothing further in the way of whisky distilling businesses.

The CHAIRMAN. But you have acquired brands.

Mr. PORTER. No.

The CHAIRMAN. Have you acquired no new brands since 1933?

Mr. PORTER. I think there must be quite a misconception, or perhaps I have been very stupid in answering the questions.

The CHAIRMAN. You have not been stupid, Mr. Porter.

Mr. PORTER. I am afraid I must have created a wrong impression here, Senator, because in our own company we acquired the Overholt and Large properties, which we had had nothing to do with before. That was before repeal.

Mr. BUCK. Mr. Porter, I beg your pardon there, how soon? You acquired those things in anticipation just a month or two before repeal, didn't you?

Mr. PORTER. I think it was 8 or 9 months before repeal, but in anticipation of repeal, yes; you are correct, entirely so. We certainly wouldn't have acquired them otherwise.

Mr. DAVIS. When did you acquire the Mt. Vernon?

Mr. PORTER. That has belonged to these predecessor companies for 50, 60, or 70 years as far as I know. It has always been there.

Mr. DAVIS. When did your company acquire it?

Mr. PORTER. In the reorganization I referred to in 1924, it was one of the assets, it was given to us in the bankruptcy. We have acquired, Senator, no brands that I can think of, of any importance, since repeal. To make it quite plain, we owned at the time of repeal, or a considerable time before that, the Old Taylor brand and the whisky, and we owned the Old Crow brand and such whisky as there was; we did not own the distilling premises, or what had been distilleries in Kentucky, and we acquired those after repeal, that is such buildings as were on the site, and we completely rebuilt those two properties and started in production of whisky there.

Mr. BUCK. That is just the point I wanted to ask you, Mr. Porter. You say that your dominance is due to the——

Mr. PORTER (interposing). I didn't say dominance.

Mr. BUCK. Whatever it is, your position.

The CHAIRMAN. I used that word, and without any reflection.

Mr. BUCK. Your position in the industry was largely due to having the facilities. As a matter of fact, most of your facilities have been rebuilt since repeal, haven't they?

Mr. PORTER. Yes.

Mr. BUCK. You aren't using any distilleries that were used before the eighteenth amendment, are you?

Mr. PORTER. Yes.

Mr. BUCK. Physical properties?

Mr. PORTER. Yes; the Mt. Vernon distillery, the Grand Dad distillery.

Mr. BUCK. But haven't you completely rebuilt them out of profits made?

Mr. PORTER. No; we haven't completely rebuilt them. We have remodeled them to considerable extent, but they have both been in continuous operation now for 6 or 7 years.

Mr. BUCK. They have been rebuilt out of profits made out of this industry since repeal, just as anyone else would have to rebuild; isn't that so?

Mr. PORTER. Yes; they have been rebuilt to considerable extent.

Mr. BUCK. Let's get back to the chart.<sup>1</sup> You say you can't explain the difference in price to the consumer as between those two bottles of whisky by the economics of the transaction or the manufacture and distribution. Would the fact that four companies hold 78 percent of that class of whisky have any relation to the fact that it costs the consumer \$3.79?

Mr. PORTER. I don't think the four companies hold it. The fact that we have Old Taylor whisky and there is a very limited amount of it, and has been up to date, and we have orders for it in advance of its being ready, has enabled us to get what apparently seems to you a very large price and a price which gives us a very good profit.

Mr. BUCK. You say it is Old Taylor whisky. Now, you were selling Old Taylor at 16 years' old, weren't you?

Mr. PORTER. Yes; we were selling it at 16 years' old.

Mr. BUCK. Now, you say age is the important factor. How old is it now?

Mr. PORTER. It is now probably 4½ or 5 years old. It is more than 4.

Mr. BUCK. If age is a factor, why do you say that you are selling the same whisky today as Old Taylor as originally sold under that brand name?

Mr. PORTER. Because we are duplicating it is nearly as humanly possible.

Mr. BUCK. You can't duplicate it as to age, can you?

Mr. PORTER. Oh, no; if it improves with age up to a certain point, that is perhaps 7 years or thereabouts. It doesn't improve much thereafter.

Mr. BUCK. As a matter of fact, your company doesn't control all the 4-year-old whisky. There is competition in the 4-year-old whisky, isn't there?

Mr. PORTER. We filed with you a list, I think, of 25 or 30 competing brands in the bottled-in-bond class alone, and I think the prices you have before you show that those whiskies instead of selling at almost \$4, a good many are now being sold at \$2, so the public doesn't have to pay that \$4 if it wants to buy one for \$2.

Mr. BUCK. As a matter of fact, if there is competition between 4-year-old whisky in the market, don't you believe that competition would drive the price down to a base upon costs, reasonable costs?

Mr. PORTER. If there is competition, that it would drive the price down—.

<sup>1</sup> "Exhibit No. 407," appendix, p. 2685.

Mr. BUCK (interposing). To a price based upon reasonable cost and profit.

Mr. PORTER. You mean and stop right there?

Mr. BUCK. I don't know where it would stop. My point is that if there is real competition, wouldn't competition bring the price down to some relation to cost instead of having it fixed, as you say, by the producer?

Mr. PORTER. No; I didn't say it was fixed by the producer. I said that there were 20 or 30, I think, bottled-in-bond whiskies selling on the market today at all the way, roughly speaking, from \$2 a bottle to nearly \$4, and the consumer didn't have to pay this \$3.79, or whatever it is, unless he wanted to. He can buy a bottle of whisky for \$2 if he wants to.

Mr. BUCK. Do you sell bottled in bond at \$2 to the consumer?

Mr. PORTER. Not that I know of, but other people do.

Mr. BUCK. I want to say to the committee that I opened up this point simply because Mr. Porter was going off this afternoon. I hadn't intended to get into it until tomorrow. Now we will go back to the corporation.

Mr. BLAISDELL. I just wondered whether Mr. Porter wanted to leave the impression with the committee that the percentage of these 4-year-old and older whiskies sold by his company was 6 or 7 percent of the sales of that company. He stated that was the percentage of the total sales in the market of that.

Mr. PORTER. I meant to say, sir, that it was my opinion that the sales of bottled-in-bond whisky in the United States in 1938 constituted about 6 or 7 percent maximum of the total sales of whisky in the United States.

Mr. BLAISDELL. Would you care to state what percentage it is of the sales of your company?

Mr. PORTER. What percentage bottled in bond is of the sales of our company?

Mr. BLAISDELL. Yes.

Mr. BUCK. Dollar value?

Mr. BLAISDELL. Gallonage.

Mr. PORTER. I must have it here somewhere. Our company does a good deal more of the bottled-in-bond business than other companies. It is a larger proportion. We have put this all in the questionnaire. I don't know that I carry that figure.

Mr. BERGE. Why do you think that the public only buys this 6 or 7 percent?

Mr. PORTER. Up to date there hasn't been until fairly recently a great deal of it. It is very hard to say what proportion of the total market the bottled-in-bond whisky will ultimately have. I imagine if you asked someone in the trade they might tell you 15 percent as a maximum of the total.

Mr. BERGE. I suppose that these oversupplies that are accumulating—

Mr. PORTER (interposing). They will all be bottled in bond some day.

Mr. BERGE. Isn't most of that being held for bonded sale?

Mr. PORTER. That is very hard to say. It is in a great many different hands, perhaps 100 different distillers.



Mr. BERGE. When you talked about this oversupply requiring a curtailment in current production, then you are not contending that there is impending or is now an oversupply of bonded whisky.

Mr. PORTER. I don't know that there is an oversupply of any whisky. I simply suggested that the supply having gotten so large that individual distillers were perhaps only replenishing their stocks as they made sales instead of piling up inventories as they had in the past. The total inventory of the country is now apparently standing more or less still, not increasing any more.

Mr. BERGE. It puzzles me that there isn't more bonded whisky sold instead of the 2-year-old in view of what I supposed is the universal, or almost universal, preference for the bonded whisky. It would seem to me that it could be accounted for in the difference in price unless you are prepared to say that the scarcity alone accounts for it, because it is clear that costs don't account for it, and I would suppose that the public would prefer the bonded whisky if they could buy it at approximately the same price.

Mr. PORTER. You see, when you talk of accurate costs, as I was trying not very successfully awhile ago to explain, it does not cost much more to make whisky and keep it for 4 years than it does to make it and keep it for 2 years, but we all know that keeping something that you can't sell and perhaps at a profit on a market for 2 or 3 extra years requires not only capital to do that but a certain amount of patience and courage, and a good many people undoubtedly that have made whisky who had an opportunity to sell it at some profit, 1, 2, or 3 years old, sold it; others may have kept it until it was 4 or 5 years old. It does require something to keep it. Do you see what I mean? There is another element in there perhaps than the strict mathematical cost.

Mr. BUCK. Mr. Porter, of the three factors you have mentioned as being necessary to keep it, capital, patience and courage, which of the three is most important?

Mr. PORTER. Well, capital is essential; the others are incidental.

Mr. BERGE. I suppose that in considering the difference in cost when you said that a few cents a gallon would take care of the difference in cost, you were allowing for interest on the money necessary to hold it, and I supposed you were amply covering that factor.

Mr. PORTER. Well, I don't know whether I was amply covering it or not, but it is a small difference. I don't think there is any use trying to exaggerate it because I don't think mathematically there is a great difference there.

#### DIRECTORS OF NATIONAL DISTILLERS PRODUCTS CORPORATION AND THE COMPANIES WITH WHICH THEY ARE CONNECTED

Mr. BUCK. We will have to get back now. Mr. Porter, first I would like to ask you, do you know the number of subsidiary corporations to National Distillers Products, in round numbers?

Mr. PORTER. There are no very important operating companies. National does all the operations except a few subsidiaries that are mentioned there that have been covered, I think.

Mr. BUCK. How many are there?

Mr. PORTER. All together, subsidiary companies?

Mr. BUCK. Yes.

Mr. PORTER. Including those brand-name companies?

Mr. BUCK. Including all of them.

Mr. PORTER. There might be 50, I suppose. I never counted them.

Mr. BUCK. Fifty subsidiaries?

Mr. PORTER. I really don't know.

Mr. BUCK. You are president of the National Co.?

Mr. PORTER. Yes, sir.

Mr. BUCK. Are these the directors of National Distillers Products Corporation?

Charles E. Adams, Harold Boeschenstein—how do you pronounce it?

Mr. PORTER. Besh-en-stein.

Mr. BUCK. William C. Breed, Mortimer N. Buckner, Thomas A. Clark, R. L. Clarkson, Pierpont V. Davis, J. Russell Forgan, Charles L. Jones, William E. Levis, M. J. MacNamara, Charles S. Munson, Seton Porter, Paris S. Russell, and D. K. Weiskopf.

Mr. PORTER. That is correct.

Mr. BUCK. May we have the next chart?

Mr. PORTER, may I ask you if you have any objection to stating to the committee what other corporations you are a director or officer of besides National and its subsidiaries?

Mr. PORTER. No. I am a director of American Water Works & Electric Co. and a number of its subsidiary companies, the American Sumatra Tobacco Co., Twentieth Century Fox Film, General Theatres Equipment. Those are all, I think, listed on the stock exchange. A company called Electric Power Associates. I think that is about all.

Mr. BUCK. For the benefit of the committee I have prepared a chart showing the companies or corporations in which the directors of National Distillers Products Corporation are also directors or other officers according to Poor's Directory. Mr. Brown, will you read them off? Take Mr. Charles E. Adams. According to Poor's Directory he is a director of—

Mr. BROWN (reading from "Exhibit No. 408"). Mr. Adams is a director in the Air Reduction Co.; Commercial Acetylene Supply Co.; Cuba Distilling Co.; Cuban Air Products Corporation; Dry Ice, Inc.; Magnolia Airco Gas Products Co.; the Mutual Life Insurance Co. of New York; National Carbide Corporation; Sterno Corporation; U. S. Industrial Alcohol Co.; U. S. Industrial Chemical Co.; Vanadium Corporation of America; Pure Carbonic Co., Inc.; Wilson Welder & Metals Co., Inc.; Bank of New York & Trust Co.; and 4 East 72d Street Corporation.

Mr. BUCK. Mr. Harold Boeschenstein.

Mr. BROWN. Mr. Boeschenstein is a director in the Owens-Illinois Glass Co., Weco Products Co. of Chicago, Edwardsville (Ill.) National Bank & Trust Co., Owens-Illinois Pacific Coast Co., Libbey Glass Co., and Owens-Illinois Can Co.

Mr. BUCK. Mr. William C. Breed.

Mr. BROWN. Mr. Breed is an attorney and a member of the firm of Breed, Abbott & Morgan, the Agfa Ansco Corporation, American Rolling Mill Co., and Dictaphone Corporation.

Mr. BUCK. Mr. Mortimer N. Buckner.

Mr. BROWN. Mr. Buckner is a director in the New York Trust Co.; the American Art Association; the American-Canadian Properties

Corporation; Carolina, Clinchfield & Ohio Railway; the Cheramy, Inc.; Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; Columbia Graphophone Factories Corporation; Consolidated Gas, Electric Light & Power Co of Baltimore; Fidelity Co.; Fishers Island Corporation; Flood Credits Corporation; Globe & Rutgers Fire Insurance Co.; the Home Insurance Co.; Houbigant, Inc.; Interborough Rapid Transit Co.; and International Power Securities Corporation.

The CHAIRMAN. Mr. Buck, I suggest that you ask Mr. Brown to say "incorporated," because some persons might get the idea that we are talking about ink in whisky bottles.<sup>1</sup>

Mr. BROWN. I'm sorry; I was trying to abbreviate.

Mr. BUCK. I agree.

Mr. BROWN. John P. Maguire & Co.; International Power Securities Corporation; New York Life Insurance Co.; New York World's Fair 1939, Inc.; Northeast Baltimore Corporation; Pennsylvania Water & Power Co.; the Provident Loan Society of New York; and the Roseton Brick Corporation, Roseton, N. Y.

Mr. BUCK. Thomas A. Clark.

Mr. BROWN. Mr. Clark is a director in Alex D. Shaw & Co., Inc.; A. Overholt & Co., Inc.; Crown Fruit & Extract Co., Inc.; Henry H. Shufeldt & Co.; John de Kuyper & Son, Inc.; W. A. Gaines & Co.; W. & A. Gilbey, Ltd.; Large Distilling Co.; Penn-Maryland Corporation; and Chickasaw Wood Products Co.

Mr. BUCK. R. L. Clarkson.

Mr. BROWN. Mr. Clarkson is a director in Amerex Holding Corporation; American Express Co.; the American Express Co., Inc.; American Sumatra Tobacco Corporation; Consolidated Oil Corporation; Continental Baking Corporation; General Theatres Equipment Corporation; Underwood Elliott Fisher Co.; Seaboard Air Line Railway Co.; and Wells-Fargo & Co. of Colorado.

Mr. BUCK. Pierpont V. Davis.

Mr. BROWN. Mr. Davis is a director of Brown, Harriman & Co., Inc., Dry Dock Savings Institution, Philadelphia & Reading Coal & Iron Co., Philadelphia & Reading Coal and Iron Corporation, and Philippine Railway Co.

Mr. BUCK. J. Russell Forgan.

Mr. BROWN. Mr. Forgan is a member of the firm of Glore, Forgan & Co. of Chicago, Blue Ridge Corporation, Borg Warner Corporation, Italian Super-Power Corporation, Invisible Glass Co. of America, and Rector Rolling Co.

Mr. BUCK. Charles L. Jones.

Mr. BROWN. Mr. Jones is a director of the Manufacturers Trust Co. and Bush Terminal Co. of New York.

Mr. BUCK. William E. Levis.

Mr. BROWN. Mr. Levis is a director in Owens-Illinois Glass Co.; Weco Products Co., Kimble Glass Co., Owens Staple-Tied Brush Co., Owens-Illinois Pacific Coast Co., Libbey Glass Co., and Invisible Glass Co. of America.

Mr. BUCK. Mr. MacNamara.

Mr. BROWN. Mr. MacNamara is a director in Alex D. Shaw & Co., Inc., Crown Fruit & Extract Co., Inc., Henry H. Shufeldt & Co., John de Kuyper & Son, Inc., W. & A. Gilbey, Ltd., American Medici-

<sup>1</sup> Mr. Brown, in reading, used the abbreviated pronunciation for "Co." and "Inc."

nal Spirits Corporation of New York City, and Chickasaw Wood Products Co.

Mr. BUCK. Charles S. Munson.

Mr. BROWN. Mr. Munson is a director of Air Reduction Co., Inc., Canada Dry Ginger Ale, Inc., Commercial Acetylene Supply Co., Cuba Distilling Co., Cuban Air Products Corporation, Dry Ice, Inc., Liquid Carbonic Corporation of Cuba, Magnolia Airco Gas Products Co., National Carbide Corporation, Porto Rico Mercantile Co., Reinsurance Corporation of New York, Sterno Corporation, United Drug, Inc., United States Industrial Alcohol Co., United States Industrial Chemical Co., Wilson Welder & Metals Co., Inc., 4 East Seventy-second Street Corporation, Pure Carbonic Co. of America, and Drug, Inc.

Mr. BUCK. Paris S. Russell. I think he is a lawyer.

Mr. BROWN. He is.

Mr. BUCK. D. K. Weiskopf.

Mr. BROWN. Mr. Weiskopf is a director of Alex D. Shaw & Co., Inc., W. & A. Gilbey, Ltd., American Medicinal Spirits Co., American Medicinal Spirits Corporation, A. Overholt & Co., Inc., and Penn-Maryland, Inc.

Mr. BUCK. Thank you, Mr. Brown. As I understand this chart, it is taken from the Poor's Directory, as I have stated, and I assume it is an authentic designation.

The CHAIRMAN. Who made the chart?

Mr. BUCK. We copied it from Poor's directory.

The CHAIRMAN. This is a transcript from Poor's directory made by the Federal Trade Commission?

Mr. BUCK. The Federal Alcohol Administration. Poor's Manual.

The purpose and perhaps the value of it to the committee is to see at a glance the corporate—well, I don't know how to describe it, but there it is.

(The chart referred to was marked "Exhibit No. 408" and is included in the appendix on p. 2686.)

Mr. BUCK. This chart does not purport to include the stockholders' connections at all. This chart only relates to the directors of National Distillers Products Corporation, and these directors of National are also directors or officers of the corporations mentioned upon the chart according to the manual.

Mr. Porter, I believe we have stated the approximate advertising expenditures of your company in the promotion of sales for the year 1938; it was \$3,136,999. That I assume is about correct. That is according to your report in answer to the questionnaire. Unless the committee has further questions for Mr. Porter, Mr. Chairman, I feel that that is about as far as I want to go.

Mr. BALLINGER. Mr. Porter, do you extend credit to wholesalers?

Mr. PORTER. To wholesalers?

Mr. BALLINGER. Do they buy from you?

Mr. PORTER. Yes; naturally.

Mr. BALLINGER. Do you extend credit in excess of \$100,000? Have you got any account outstanding with wholesalers in debt to you more than \$100,000?

Mr. PORTER. Oh, yes; I think so.

Mr. BALLINGER. When a wholesaler becomes in debt to you, does he handle exclusively your brands?

MR. PORTER. No.

MR. BALLINGER. He doesn't?

MR. PORTER. No.

MR. BALLINGER. You never required him to?

MR. PORTER. Never.

MR. BALLINGER. And as a matter of fact he doesn't. He handles competing brands when he is in debt to you.

MR. PORTER. Yes, indeed.

MR. BERGE. When a distiller acquires a brand from another distiller what does he get, what does he buy?

MR. PORTER. When a distiller does what?

MR. BERGE. Acquires a brand. You talked today about acquiring brands. You said sometimes you buy physical properties and sometimes you just buy brands. What do you get when you buy a brand, a trade name and a trade-mark, or what?

MR. PORTER. We have bought very few, and if you just bought a brand—I don't know that we have ever bought a brand just as that.

MR. BERGE. I understood this morning—

MR. PORTER (interposing). I was speaking of the acquisition of Overholt, I think, and said that we bought the assets rather than the stock. We bought the brand along with it. The brand would consist of the man's trade name, and if it was trade-marked and registered you would get that right as well. He would assign to you all title and right he had in it.

MR. BERGE. Do you get along with that a formula or a process for making a particular kind of whisky?

MR. PORTER. If you did such a thing you would; yes.

MR. BERGE. Suppose that you bought a plant including physical properties. Would you get a particular formula?

MR. PORTER. Yes; you might.

MR. BERGE. Well now, do you mean by that that every trade name must be confined to a particular formula in manufacture?

MR. PORTER. No; I don't think it need be; no; it need not be.

MR. BERGE. I am not asking these questions with reference to your particular practices or to try to suggest that you engaged in any of them, but what would there be to prevent a distiller from buying up brands and either not manufacturing them or putting out a kind of whisky that he has previously manufactured under an acquired brand, under a new brand name? Would there be anything in the law or in the ethics of the profession to prevent that?

MR. PORTER. You mean buying up somebody's brand and then disusing it?

MR. BERGE. Yes. Suppose you bought—let's take a hypothetical name—Green Light whisky, and it had been manufactured by some other outfit and you wanted to continue to use that name because of the certain goodwill attaching to it. Would there be anything to prevent you from putting out a whisky that you previously sold under some other name under this new name, Green Light, if you had acquired it?

MR. PORTER. Unless the owner of that brand had advertised that he was selling under a certain formula, if it was just a brand of whisky and there had been no representation by the previous owner that it contained this, that, or the other thing, and a new owner

acquired it, he would be presumably free to change what he put into the bottle. Of course, if the customer had liked what was in there before and you changed it, you run the serious risk of losing all value to the brand.

Mr. BUCK. Mr. Berge, I might interrupt you there to say you will find an interesting case reported on that case, from the circuit court of appeals in Maryland last year, involving the law so far as the right to use a brand previously established is concerned.

Mr. BERGE. I don't want to extend this, but there are one or two more questions I would like to ask. Would you say that all these brands—and there must be hundreds on the market, certainly scores—that are well known and nationally advertised all represent whisky manufactured according to a different formula?

Mr. PORTER. Well, it is very hard for me to say what other people, what other distillers, do. All of our principal brands of whisky, and I am now speaking of straight whisky, are made with a different formula. Of course, the minute you get into the blended field the variety is unlimited. I mean the combinations that can be made, and the quantities, but speaking of straight whiskies, I can tell you only so far as our company is concerned. Our principal brands of straight whisky or bottled-in-bond whisky are all made under somewhat different formulas.

Mr. BERGE. You said this morning that there were several brands made in one distillery. I don't know that that is true now.

Mr. PORTER. It was for a brief period during prohibition.

Mr. BERGE. And each of those—

Mr. PORTER (interposing). Was made under a different formula. They were made at separate times. You had to make a complete adjustment.

Mr. BERGE. Well, I had a general impression, and I wanted to see how your testimony bore on that, that a great deal of this advertising with respect to different brands was just built on a customer's notion of what is associated with a particular name, and sometimes there is something to it and sometimes there is not, and I wondered to what extent a company had to adhere to an original formula once it acquired the new brand name.

Mr. PORTER. I think if you got into litigation over it, and it was shown that you changed the formula around, you might be—I am not a lawyer, but I think it might weaken your position very much.

Mr. BUCK. I think what Mr. Berge has in mind is this: So far as the law is concerned, you might draw six brands out of one and the same barrel.

Mr. PORTER. Yes; I imagine.

Mr. BERGE. There is no legal restraint on your doing that?

Mr. PORTER. No; I think not. Well, of course, if it is a straight whisky or bottled-in-bond whisky, it has to bear the name of the distiller, and if the same distiller has made all these different brands it is going to appear right on the bottle.

Mr. BERGE. But your four different whiskies are different only because you wish to keep them so.

Mr. PORTER. They are made in different distilleries. They are as different as can be. Each of those whiskies has a different distillery making it.

The CHAIRMAN. Where do you make your Sunny Brook bourbon?

Mr. PORTER. In the Sunny Brook distillery.

The CHAIRMAN. Where do you make the Black Gold?

Mr. PORTER. Black Gold is a weak whisky which has been made, I think, in two or three different places. As I understand the Black Gold, it is about the only weak whisky that has been made.

The CHAIRMAN. Where do you make it?

Mr. PORTER. We have made it in two or three different places, Sunny Brook and, I think, possibly Grand Dad.

The CHAIRMAN. How about Blue Grass?

Mr. PORTER. There is no individual distillery existing for that brand. It has had to be made at another distillery. It has no distillery all of its own.

The CHAIRMAN. Where is it made?

Mr. PORTER. It was made in the so-called Grand Dad plant at Louisville.

The CHAIRMAN. Any place else?

Mr. PORTER. I think not, unless it has been made perhaps at Sunny Brook, also.

The CHAIRMAN. If it is made only at Grand Dad, then it has a distillery all its own.

Mr. PORTER. Well, but I mean it does not have a distillery exclusively devoted to its production.

The CHAIRMAN. I see.

Mr. BERGE. Are whiskies necessarily different because they are made at different distilleries? Wouldn't it be possible—

Mr. PORTER (interposing). It is very difficult to duplicate them.

Mr. BERGE. Necessarily so?

Mr. PORTER. I wouldn't say that. It is difficult.

Mr. BERGE. Couldn't you make it according to the same formula if you had the same grains, etc.?

Mr. PORTER. I can only tell you the most striking example of that is if you travel north in England and go into Scotland you can't tell when you are passing out of England into Scotland. That is the oldest whisky manufacturing country perhaps in the world, and they have never succeeded, I am told, in making what they call Scotch whiskies in England. It is very hard to explain, but that seems to be true.

Mr. BUCK. Mr. Porter, let me ask you this question: How many brands do you have all told?

Mr. PORTER. One hundred and fifty or two hundred.

Mr. BUCK. How many distilleries do you have?

Mr. PORTER. Nine.

Mr. BUCK. That is all.

The CHAIRMAN. Any other questions?

Mr. O'CONNELL. I would like to refer for a moment to your testimony when we were discussing the matter of price of 4-year-old whisky and the other whisky. As I recall it, you suggested in speaking about a reasonable return that you felt that the return that your company had realized was not an unreasonable one in view of the fact that it was not more than possibly 10 or 12 percent, based on gross sales. I am not particularly interested in discussing what is a fair price, but it did occur to me, since you had raised the question,

that there is another way of determining on a percentage basis what a fair percentage of return is, and it would probably be based upon invested capital or net worth, or something of that sort. That brings me to the question: Do you happen to know, in a general way, what the net worth of your company is at the present time?

Mr. PORTER. About \$44,000,000.

Mr. O'CONNELL. \$44,000,000. Do you happen to know what the gross sales of your company were in 1938, say?

Mr. PORTER. About \$64,000,000.

Mr. O'CONNELL. Do you happen to know what the net profits were?

Mr. PORTER. About \$7,500,000.

Mr. O'CONNELL. Going back to 1924, I recall that you said when the company which was in receivership came out of receivership, it represented the assets of the bankrupted concern, which were acquired by \$11,000,000 of preferred stock paid to the creditors, with possibly some common stock, but you weren't sure about that, and in addition about \$3,500,000 of borrowed money for working capital, represented by debentures plus some or all of the common stock of the new company. Is that correct?

Mr. PORTER. Some of the common stock with both the preferred and also with the debentures.

Mr. O'CONNELL. We didn't know this morning how it was divided up.

Mr. PORTER. That is the way it is.

Mr. O'CONNELL. By 1929 the preferred stock had been retired out of earnings or out of the sale of the corporate assets, in part, and at that time I think you said no new capital had come into the business.

Mr. PORTER. Except by way of earnings and the sale of assets.

Mr. O'CONNELL. Could you tell me between 1929 and 1938 how much new capital came into your company, I mean other than out of earnings?

Mr. PORTER. I think that that has all been submitted in questionnaires, but, roughly speaking from memory, we have sold to the public an issue of debentures of the principal amount of 15,000,000 shortly after repeal. I think that would be the principal. That is about the only source of capital from the public that we have obtained.

Mr. O'CONNELL. Are those \$15,000,000 of bonds outstanding now or have they been paid off in part?

Mr. PORTER. They are outstanding except insofar as they have been retired with the sinking fund. There are about 13,500,000 outstanding of those today.

Mr. O'CONNELL. I see, so that except for that the present natural position of the company, or its net worth, is represented by earnings.

Mr. PORTER. By earnings.

Mr. O'CONNELL. Thank you.

The CHAIRMAN. Are there any other questions?

Representative WILLIAMS. No; I think not.

The CHAIRMAN. Mr. Blaisdell?

Mr. BLAISDELL. No.

The CHAIRMAN. Judge Davis?

Mr. DAVIS. No.



The CHAIRMAN. You are excused, Mr. Porter, and may I, on behalf of the committee, thank you for your very ready responses to the various inquiries that have been made to you this afternoon.

Mr. PORTER. Thank you for your courtesy, Senator.

The CHAIRMAN. I am about to take a recess until tomorrow morning at 10 o'clock. What will be your program tomorrow morning, Mr. Buck?

Mr. BUCK. Senator, if you can hold over for a few minutes, it will help out a lot. I am running way behind in this. Does the committee wish to adjourn right now?

The CHAIRMAN. Of course, there is a great desire on the part of some of us to attend to other matters. We will try to be more prompt tomorrow morning and probably will not interrupt you so much.

Mr. BUCK. Thank you.

The CHAIRMAN. What will be your program tomorrow?

Mr. BUCK. The earlier the better for me.

The CHAIRMAN. Whom are you going to call?

Mr. BUCK. Mr. Friel, Mr. Jacobi, and Mr. Walton.

(The witness, Mr. Porter, was excused.)

The CHAIRMAN. The committee will stand in recess until 10 o'clock tomorrow morning.

(Whereupon, at 4:25 p. m., a recess was taken until Thursday, March 16, 1939, at 10 a. m.)



# INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, MARCH 16, 1939

UNITED STATES SENATE,  
TEMPORARY NATIONAL ECONOMIC COMMITTEE,  
*Washington, D. C.*

The committee met at 10:20 a. m., pursuant to adjournment on Wednesday, March 15, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman); Representatives Reece and Williams; Messrs. Ferguson; Davis; Henderson; O'Connell; Patterson; Berge; Thomas D. Lynch, representing Securities and Exchange Commission; Willard Thorp and Ernest Tupper, representing Department of Commerce.

Present also: Federal Trade Commissioners William A. Ayres and Charles H. March; Willis J. Ballinger, Director of Studies and Economic Advisor to the Federal Trade Commission; William T. Kelley, chief counsel, Federal Trade Commission; Phillip Buck, chief counsel, and John P. Brown, attorney, Federal Alcohol Administration.

The CHAIRMAN. The meeting will please come to order.

Mr. Ballinger, are you ready to proceed?

Mr. BALLINGER. Yes, sir, Mr. Chairman. Mr. Buck has some more witnesses to examine this morning.

The CHAIRMAN. Call the first witness, please.

Mr. BUCK. Mr. Friel, of Seagram's.

The CHAIRMAN. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, in these proceedings, so help you God?

Mr. FRIEL. I do.

## TESTIMONY OF JAMES E. FRIEL, VICE PRESIDENT, JOSEPH E. SEAGRAM & SONS, INC., NEW YORK CITY

Mr. BUCK. Mr. Chairman, Mr. Friel is representing the Seagram Corporation, one of the four that we have had under discussion heretofore. I might say in this connection that I have tried to obtain the presidents of each of these large incorporations; and I wanted Mr. Sam Bronfman to appear, but he was not in New York apparently and I talked with him over the telephone in Montreal, Canada, and asked him to come here. He was busy and couldn't come, so I telegraphed him and I have here his reply. I should like to submit it for the record.

Acting Chairman REECE. It will be received.

(The telegram was marked "Exhibit No. 409" and is included in the appendix on p. 2687.)

Mr. BUCK. Mr. Friel, what is your position with the Seagram Corporation?

Mr. FRIEL. I am vice president and treasurer in most of the American companies.

Mr. BUCK. You are vice president and treasurer of all the American companies?

Mr. FRIEL. Practically all.

Mr. BUCK. What companies are you not connected with, what American companies?

Mr. FRIEL. I don't know of any American active company that I am not. There are some inactive companies that I am not an officer of.

#### CORPORATE STRUCTURE OF DISTILLERS CORPORATION SEAGRAMS, LTD.

Mr. BUCK. What is the corporate organization of Seagrams?

Mr. FRIEL. Well, the parent company is the Distillers Corporation Seagrams, Ltd.

Mr. BUCK. What sort of corporation is that?

Mr. FRIEL. It is a corporation organized in Canada.

Mr. BUCK. When was it organized?

Mr. FRIEL. It was organized in 1928.

Mr. BUCK. 1928?

Mr. FRIEL. That is correct.

Mr. BUCK. Is that what might be termed the parent holding company of the whole Seagram structure?

Mr. FRIEL. That is a good way to put it.

Mr. BUCK. Is the parent company in Canada engaged in operating businesses there?

Mr. FRIEL. The parent company as such does not operate. It owns the stocks of subsidiary companies.

Mr. BUCK. It is a holding company?

Mr. FRIEL. That is correct.

Mr. BUCK. Who owns it?

Mr. FRIEL. It is a public company; shares are all listed on the exchange.

Mr. BUCK. When did it become a public company?

Mr. FRIEL. Right at its inception, in 1928.

Mr. BUCK. At the beginning the Seagram people had no organization in the United States prior to repeal of the twenty-first amendment?

Mr. FRIEL. Not that I know of.

Mr. BUCK. How did they enter the United States through this corporate structure?

Mr. FRIEL. They purchased the plant at Lawrenceburg, Ind., that had been operating, as I recall it, as a title 3 plant.

Mr. BUCK. Whose plant was that?

Mr. FRIEL. Rossville Chemical & Alcohol Co., I think the name was.

Mr. BUCK. First, let's get the organization. How were they organized to enter? How did they organize to enter into the United States?

Mr. FRIEL. They bought the assets, they bought the plant, and they also bought a small corporation.

Mr. BUCK. What was that?

Mr. FRIEL. Rossville Union Corporation. After they bought both, they merged the plant into the corporation and changed its name to Joseph E. Seagram & Sons.

Mr. BUCK. They didn't merge the plant. The corporation took the plant over.

Mr. FRIEL. That is right.

Mr. BUCK. The Canadian company bought the plant and the bought this corporation that you speak of?

Mr. FRIEL. They bought both simultaneously.

Mr. BUCK. They bought two?

Mr. FRIEL. That is correct.

Mr. BUCK. Then they transferred title to the plant to the corporation?

Mr. FRIEL. That is correct.

Mr. BUCK. And then the name of the original corporation was changed to Joseph E. Seagram Co.?

Mr. FRIEL. That is correct.

Mr. BUCK. At that time what was the size of the American organization, in dollars?

Mr. FRIEL. At that time the plant itself I think was about \$1,050,000.

Mr. BUCK. \$1,050,000?

Mr. FRIEL. That is correct.

Mr. BUCK. That was the origin of Seagram?

Mr. FRIEL. Just the plant itself.

Mr. BUCK. What other capital did they have in the business in the United States?

Mr. FRIEL. None in the United States.

Mr. BUCK. None in the United States, and that is the significant "borning," you might say, of the Seagram corporate chain in the United States?

Mr. FRIEL. That is correct.

Mr. BUCK. What is the present size of the Seagram American chain?

Mr. FRIEL. As to plants or as to companies?

Mr. BUCK. As to number of corporations involved. I won't ask you to name them unless you wish to.

Mr. FRIEL. Well, there are probably four or five really active corporations, operating corporations.

Mr. BUCK. Is Calvert Distilling Co. a subsidiary of Seagram?

Mr. FRIEL. Distillers Corporation, Seagrams, Ltd.

Mr. BUCK. Lets get that straight too. You see, you have thrown me out at first base.

Julius Kessler Distilling Co. Who owns that?

Mr. FRIEL. Distillers Corporation, Seagram, Ltd.

Mr. BUCK. When did it enter the United States?

Mr. FRIEL. It was formed as a corporation in, I think, 1935.

Mr. BUCK. Is that the old Joseph E. Seagram & Sons?

Mr. FRIEL. No; it is a different corporation.

Mr. BUCK. Well, let's start back. You came into the United States through the Joseph E. Seagram Sons?

Mr. FRIEL. That is correct.

Mr. BUCK. Now give us the chronological development.

Mr. FRIEL. As, I think, of about May 1, 1934, we bought the stock of Maryland Distillery, which was a company that had a plant in Baltimore and which had been operating but selling very little whisky. In July or August 1935, we organized the Julius Kessler Distilling Co., and about 1935 we organized the Joseph E. Seagram & Sons, a Delaware corporation which constructed a plant in Kentucky. They are the major units. Calvert Distilling Co. was originally a subsidiary of Maryland Distillery and later became a direct subsidiary of the parent company.

Mr. BUCK. Mr. Friel, I hand you a chart that was given to me by your counsel some time ago. I ask you to look it over and state whether or not that corporate set-up indicated in that chart is approximately correct.

Mr. FRIEL. How long ago did you get this?

Mr. BUCK. Six months, I guess.

Mr. FRIEL. That is right.

Mr. BUCK. That does depict the corporate set-up in the United States?

Mr. FRIEL. Yes; and Canada.

Mr. BUCK. And is approximately correct as the status stands now?

Mr. FRIEL. Yes.

Mr. BUCK. I will submit it for the record, if it is agreeable, Mr. Chairman, and ask the committee if they would like to see it.

Acting Chairman REECE. It may be received

(The chart was marked "Exhibit No. 410" and is included in the appendix facing p. 2687.)

Acting Chairman REECE. You want that printed in the record, I assume.

Mr. BUCK. Yes.

Acting Chairman REECE. These will all be printed unless it is otherwise indicated.

Mr. BUCK. You started in the United States with a capitalization, you say, of a million some-odd thousand dollars?

Mr. FRIEL. That's right.

Mr. BUCK. What is the present size of the aggregate corporate holdings?

Mr. FRIEL. In the United States?

Mr. BUCK. Yes.

Mr. FRIEL. Oh, I would say roughly we have today invested in the United States about \$60,000,000 to \$65,000,000.

Mr. BUCK. Most of it earned?

Mr. FRIEL. Yes. That is not the capital.

Mr. BUCK. Most of that earned since repeal?

Mr. FRIEL. No; not necessarily.

Mr. BUCK. What part of it, do you think?

Mr. FRIEL. Well, actually the earnings in the United States, as such, for the American corporation since repeal, after taxes, have been somewhere, I would say, around \$15,000,000.

Mr. BUCK. You say that is the earnings in the United States since repeal?

Mr. FRIEL. Of the American companies?

Mr. BUCK. Of the American companies.

Mr. FRIEL. That's right.

Mr. DAVIS. Does that include any profit employed in reinvestment or expansion?

Mr. FRIEL. Well, we did not declare any dividends for 6 years so that we put all of our profits right back.

Mr. DAVIS. Are you counting those 6-year profits you mention within the \$15,000,000 in profits you speak of?

Mr. FRIEL. \$15,000,000, plus money that was sent down from Canada for investment.

Mr. DAVIS. All right.

Mr. BUCK. Approximately how many subsidiary corporations are there now held by Distillers Corporation, Seagrams, Ltd.?

Mr. FRIEL. If you will lend me that chart I will count them.

Mr. BUCK. I mean in the United States.

Mr. FRIEL. I would say about 12.

Mr. BUCK. Twelve in the United States?

Mr. FRIEL. Twelve direct.

Mr. BUCK. How many indirect, if there are any, in the United States? What I am trying to do is to get at your subsidiaries in the United States and those abroad.

Mr. FRIEL. About 20 to 22 or so.

Mr. BUCK. In the United States?

Mr. FRIEL. Yes. May I add there just for the minute that we are going through a simplification program right now consolidating a number of these corporations.

Mr. BUCK. This accumulation has taken place since repeal of the eighteenth amendment in 1933?

Mr. FRIEL. That is correct.

Mr. BUCK. Are you engaged in any other business aside from intoxicating beverages?

Mr. FRIEL. None.

Mr. BUCK. How many subsidiaries are held in foreign countries?

Mr. FRIEL. I would say three active and probably two or three inactive.

Mr. BUCK. Would you name those, please, sir, Mr. Friel?

Mr. FRIEL. Distillers Corporation, Ltd.; Joseph E. Seagram & Sons, Ltd., and Robert Brown & Co.

Mr. BUCK. Do you have any holdings in Scotland?

Mr. FRIEL. Robert Brown and Co.

Mr. DAVIS. Where are they located?

Mr. FRIEL. In Glasgow.

Mr. DAVIS. Where are the ones which are inactive?

Mr. FRIEL. There are a couple of inactive companies in Scotland that we just formed to protect names.

#### BANKING CONNECTIONS OF SEAGRAMS

Mr. BUCK. Let's take the domestic or American branch of your business. Who are your bankers? Whom do you borrow money from?

Mr. FRIEL. We have 22; I think you have a list. We gave you a copy of our credit in answer to your questionnaire.

Mr. BUCK. Is this the list?

Mr. FRIEL. That is it.

Mr. BUCK. Is this the only bank-credit agreement you have?

Mr. FRIEL. Yes.

Mr. BUCK. In negotiating this bank-credit agreement, was it done through the Bankers Trust Co. in New York?

Mr. FRIEL. Not altogether. It was done through the Bankers Trust Co. and the Manufacturers Trust Co. of New York.

Mr. BUCK. Jointly by Bankers Trust and Manufacturers Trust?

Mr. FRIEL. I discussed it with both of them.

Mr. BUCK. Is Mr. Keidel, of the Bankers Trust Co., the bankers' agent under this agreement?

Mr. FRIEL. Yes.

Mr. BUCK. Is the agreement now in force and effect?

Mr. FRIEL. Yes.

Mr. BUCK. Do you have any objection to filing this agreement in the record?

Mr. FRIEL. I don't know. Is it necessary?

Mr. BUCK. I think it would save me time of questioning about it if we could just file it in the record.

Mr. FRIEL. I don't think it is necessary. I think there is a copy with the S. E. C. Why put it in the record?

Mr. BUCK. Mr. Chairman, I don't know just what to do in that case. I would like to file it in the record. I feel that it would be of interest to the committee.

Acting Chairman REECE. You feel that it should go into the record?

Mr. BUCK. I think so. It helps give the corporate background and its connections, so to speak, and I also intend to show, in connection with another one of the four companies, that—

Acting Chairman REECE (interposing). Unless there is some valid reason why it should not go into the record, I think the committee would be disposed to receive it.

Mr. FRIEL. It is just that it contains a lot of confidential information that I don't see how it could affect these purposes.

Mr. BUCK. I don't know. I want to comply with your request as far as possible and at the same time I want the committee to know the situation. My point here is this: You have this picture of the Seagram Corporation, and I propose to show that there are other corporations in the same business being financed practically through the same sources.

Acting Chairman REECE. If it is agreeable, I would suggest that the committee accept it. If not, then it is a matter which the committee itself will have to determine, I presume, in executive session.

Mr. O'CONNELL. Mr. Friel, did I understand you to say that a copy of that agreement was filed with the S. E. C.?

Mr. FRIEL. I am pretty sure it is.

Acting Chairman REECE. It would then be public information.

Mr. O'CONNELL. If it is filed with the S. E. C., it would be filed as a public record. If that is so, I don't quite understand that it would be confidential. You don't know for sure whether that is filed with the S. E. C.?

Mr. FRIEL. They don't, as a rule, look there. Now they are on notice where to look for it.

Acting Chairman REECE. The committee will accept it and determine what disposition shall be made of it.



Mr. BUCK. All right, sir; thank you.

(The agreement referred to was marked "Exhibit No. 411" and is included in the appendix on p. 2087.)

Mr. BUCK. Mr. Friel, will you state the maximum allowance of credit by the banks under this agreement?

Mr. FRIEL. At the present time?

Mr. BUCK. At its inception.

Mr. FRIEL. At its inception, \$20,000,000.

Mr. BUCK. I will keep the agreement for the committee.

Mr. DAVIS. Did I understand that at the inception your company borrowed \$20,000,000 from this bank? When was that, Mr. Friel?

Mr. FRIEL. That isn't quite correct. That contract provides that we have the right to borrow \$20,000,000, divided as follows: We could borrow up to \$10,000,000 for a period of 2 years and then \$10,000,000 more seasonally. We never did borrow \$20,000,000 under that contract.

Mr. DAVIS. How much have you paid back of what you did borrow?

Mr. FRIEL. Well, we have been up and down. We have paid back as much as nine or ten million dollars of the maximum amount that we borrowed under that credit.

Mr. DAVIS. Do you mean you have paid back nine or ten million dollars all told, or out of each of the \$10,000,000 periods?

Mr. FRIEL. You reach peaks during the winter months of the year, say in December, and you reach a low point some time during the spring or summer. When I say we paid back nine or ten million dollars I mean we had reduced the loan from the high point to the low point in the summer.

Mr. DAVIS. You paid it back out of profits, I assume.

Mr. FRIEL. Not necessarily. It may have been out of accounts receivable. The biggest part of the money was borrowed to finance the wholesaler who in turn was financing the retailer.

Mr. DAVIS. Have you sold any securities in the United States since repeal?

Mr. FRIEL. We sold \$15,000,000 worth of preferred stock.

Mr. BUCK. In other words, might this agreement be characterized as an open-credit agreement with a maximum limit of \$20,000,000?

Mr. FRIEL. Yes; in other words it gives us a contract right to borrow.

Mr. BUCK. Over a period of time until 1942?

Mr. FRIEL. No, sir; until July 12, 1939.

Mr. BUCK. '39?

Mr. FRIEL. That is correct.

Mr. BUCK. Has it been renewed?

Mr. FRIEL. It hasn't expired.

Mr. BUCK. How is it secured?

Mr. FRIEL. No security.

Mr. BUCK. Open agreement?

Mr. FRIEL. Open agreement unsecured.

Dr. THORP. Was there any separate financing done by the separate subsidiary companies, or does the whole structure act as a unit from the point of view of financing arrangements?

Mr. FRIEL. Each of the separate subsidiary companies that has become a part to this agreement has a right to borrow direct. They do so and their borrowings are restricted to the agreement.

## ADVANTAGE OF HOLDING COMPANY SET-UP TO PRODUCER

Dr. THORP. I wonder if I could just at this moment raise a question. We have had some discussions here in the committee with regard to the desirability or the usefulness of holding company arrangements. Is there anything that you could introduce that would indicate advantages to you of a structure in which there was a holding company with a series of subsidiaries rather than an organization which was singly integrated?

Mr. FRIEL. Oh, I think so, because one thing you would want separate companies to protect your trade names. Further you need separate companies to comply in some cases with the separate State laws in the States where you operate. You just couldn't have one corporation.

Dr. THORP. How does it work with regard to protecting the trade names?

Mr. FRIEL. By giving the trade name right to the corporation itself, qualifying it in a State or organizing in the State. It gives you at least a good start from which to proceed in protecting your trade names.

Dr. THORP. In other words, there are two levels with regard to the importance of names, the brand name and the name of the company, and by having a number of subsidiaries you can, therefore, have a number of company names which may also have a public appeal of some sort.

Mr. FRIEL. To the extent that you want to merchandise the separate brands.

Dr. THORP. So the tendency is, and that I suppose would be one reason for taking over certain of these old-established companies, to get the name of the company.

Mr. FRIEL. We did not take over any old-established companies; not in this country.

Dr. THORP. I don't quite follow the point, then. Or is it that you have set up separate companies so you would have separate names which you could develop?

Mr. FRIEL. We have developed separate names ourselves.

Dr. THORP. From the point of view of financial responsibility, is there any advantage, financial risk, something of that sort, in having a number of subsidiaries?

Mr. FRIEL. No; not that I know of.

Mr. BUCK. Mr. Friel, as a matter of fact it isn't necessary to have subsidiaries to hold brand names, is it?

Mr. FRIEL. Yes; when you are using surnames, family names.

Mr. BUCK. Oh! How many brands do you have?

Mr. FRIEL. We haven't got so many. I don't think we have all together more than 10 or 12 brands.

Mr. BUCK. Brands of whisky?

Mr. FRIEL. In the United States.

Mr. BUCK. Are each of them held by separate corporations?

Mr. FRIEL. Practically.

Mr. BUCK. Well, practically or not; I mean it is one way or the other, isn't it? They are or they are not.

Mr. FRIEL. Will you repeat your question?

Mr. BUCK. Are each of your brand names held by separate corporations?

Mr. FRIEL. Each of the trade names; not necessarily the brand names.

Dr. THORP. I wonder if I could ask one further question about what kind of State regulations there are which make it desirable to have these separate corporations in the different States.

Mr. FRIEL. Some States won't issue a license to a corporation other than a local corporation.

Mr. BUCK. How many such States are there that you know of?

Mr. FRIEL. Oh, I would say three or four.

Dr. THORP. This is not for actual distilling, this is for distribution purposes, for wholesaling? Or is it for distilling?

Mr. FRIEL. For both.

Mr. DAVIS. In what States do you understand they do not issue a license except to local corporations?

Mr. FRIEL. Massachusetts, I believe Wisconsin, and I think there are several others. I am not sure as to what they are.

Mr. DAVIS. Are you certain that they require the corporation to take out a charter in those States as distinguished from complying with certain requirements of registration and power of attorney to some State officer who can be sued, upon whom service can be had against a company, things of that kind?

Mr. FRIEL. You mean as to qualifying the foreign corporation?

Mr. DAVIS. To do business in that State.

Mr. FRIEL. No; I think the laws of Massachusetts provide that the corporation must be a domestic one, that a foreign corporation could not qualify as such.

Mr. BUCK. That is the only one that you know of?

Mr. FRIEL. The only one that comes to me that I am clear on.

#### DISTILLING OPERATIONS AND BRANDS OWNED BY SEAGRAMS

Mr. BUCK. Mr. Friel, do you know about the operations of the distilleries, and so forth, or would you prefer to have that brought out by someone else?

Mr. FRIEL. It is just a question of how far you are going into it.

Mr. BUCK. What are the approximate stocks of liquor held by Seagram?

Mr. FRIEL. The affiliated companies in the United States?

Mr. BUCK. Yes.

Mr. FRIEL. Oh, I would say about 71, 72 million.

Mr. BUCK. Seventy-one, seventy-two million-proof gallons?

Mr. FRIEL. Original-proof gallons.

Mr. BUCK. So if the total of all stocks was 341,000,000, you hold, approximately 70 or 80 million gallons. The reason I ask you, I will tell you frankly, I just read an ad of yours in which some reference was made to 80,000,000-gallon reserve.

Mr. FRIEL. They probably counted some whisky we have in Canada.

Mr. BUCK. How do you operate your American side of the corporate structure with the Canadian side? What are the respective jurisdictions there and how do you function?

Mr. FRIEL. Well, each of the American corporations operates on its own responsibility. There is no connection in direct management between the Canadian affiliates and the United States affiliates.

Mr. BUCK. You say there is no connection?

Mr. FRIEL. Other than the ownership.

Mr. BUCK. What about the Bronfman family? As a matter of fact, don't they dominate the whole thing?

Mr. FRIEL. Dominate, if you mean by policy; laying down the schooling of the men; yes.

Mr. BUCK. They run the structure, don't they?

Mr. FRIEL. They do not run the structure.

Mr. BUCK. You say they lay down the policy for the whole business?

Mr. FRIEL. The board of directors of the parent company, of which the Bronfmans are two, lay the policy down.

Mr. BUCK. How often does Mr. Bronfman come to the United States?

Mr. FRIEL. That is a hard question.

Mr. BUCK. Would he spend any time here?

Mr. FRIEL. I would say it would have to be a guess at best, it probably would be one-third of the year—a quarter.

Mr. BUCK. Does he maintain a home here?

Mr. FRIEL. He does not.

Mr. BUCK. A large proportion of your whisky consists of blends?

Mr. FRIEL. We market practically all blends.

Mr. BUCK. In making blends you import from your Canadian holdings, or have in the past?

Mr. FRIEL. We have in the past.

Mr. BUCK. While you were drawing from your Canadian reserve for making blends, you were accumulating an American reserve over here?

Mr. FRIEL. That is right.

Mr. DAVIS. Do you manufacture both bourbon and rye whisky in the United States?

Mr. FRIEL. That is correct.

Mr. DAVIS. Anything else? Do you manufacture anything else?

Mr. FRIEL. We manufacture our own neutral spirits.

Mr. DAVIS. Where do you manufacture those in the United States?

Mr. FRIEL. Neutral spirits at Lawrenceburg, Ind., and at Baltimore; or we will be manufacturing at Baltimore very quickly.

Mr. DAVIS. You don't have any wine holdings in the United States?

Mr. FRIEL. No.

Mr. DAVIS. In Canada?

Mr. FRIEL. No, sir.

Mr. DAVIS. What type whisky do you manufacture in Canada?

Mr. FRIEL. We manufacture Scotch whiskies, Canadian whiskies, gins, some ryes, and bourbons.

Mr. DAVIS. What were the sales of your company, which was then exclusively a Canadian company, in the United States from the effective date of the eighteenth, or prohibition, amendment up until the twenty-first amendment, as compared with your sales in the United States before that period?

Mr. FRIEL. Well, I would say right away that we didn't have any sales in the United States during prohibition.

Mr. DAVIS. Not even for medicinal purposes?

Mr. FRIEL. No.

Mr. DAVIS. You exported no whisky into the United States during that period?

Mr. FRIEL. Not into the United States; not as far as I know.

Mr. DAVIS. All right.

Mr. BUCK. Mr. Friel, I think you stated a few minutes ago that you had only a few brands. Let me read you these: Five Crown, Seven Crown, Crown Special, Bar Special, Special Reserve, Silver Dollar, Meadow Cream, Old Crony, Old Man River, Lincoln Inn Bourbon, Kessler, Calvert Reserve, Calvert Special, Old Drum, Private Stock, Old Durham, Durham Bar Special, Kentucky Pride, Maryland Club, Little Straight Rye, Virginia Club, Calvert Club, Ancient Bottle Aged, Pedigree, Seagrams Bourbon, VO, Eighty-three, Silver Dollar, Five Crown—we read that before.

Those are all your brands, aren't they?

Mr. FRIEL. They are all our brands. Some of them are Canadian brands.

Mr. BUCK. Sold in the United States?

Mr. FRIEL. Some of them.

Mr. BUCK. Practically all of them are sold here, aren't they?

Mr. FRIEL. Practically all of the Canadian brands.

Mr. BUCK. Aren't all these brands sold in the United States?

Mr. FRIEL. Some of them I would say haven't; if they have been sold, the sales are very small here recently.

Mr. BUCK. My point was whether you had in existence a corporation for each brand. You said you didn't know. I asked you how many brands you had, and you said, "I forget; five or six."

Mr. FRIEL. I said about 10 or 12. When I said that I meant the active brands.

Mr. BUCK. What are your expenditures in advertising in the United States?

Mr. FRIEL. I would have to refer to the figures, which you have a copy of.

Mr. BUCK. Let it go. I will put it in later.<sup>1</sup>

As I understand it, you had no stocks of whisky in the United States at the time of repeal, in 1933.

Mr. FRIEL. That is correct.

Mr. BUCK. And what stocks you have now are accumulations since that time?

Mr. FRIEL. That is correct.

Mr. BUCK. That is the situation. That is all I have, Mr. Chairman.

Acting Chairman REECE. Have you developed if the stocks which are now in the United States were manufactured here?

Mr. BUCK. Yes; I understand he testified that there were between 70,000,000 and 80,000,000.

Acting Chairman REECE. It was all produced here?

Mr. BUCK. That is right.

Mr. O'CONNELL. Do I understand that all—

Mr. BUCK (interposing). Just one mintue. Mr. Friel, will you name your directors? Let me read them to you. Are the following a list of your corporate directors: Samuel Bronfman; Harvey D.

<sup>1</sup> The figures are on file with the Federal Alcohol Administration.

Gibson; Aime Geoffrion, K. C., of Montreal; Frank R. Schwengel, New York City; James E. Friel; Allan Bronfman; Thomas H. McInnerny, William B. Cleland, H. F. Willkie. Does that compose the board of directors of Distillers Corporation, Seagrams Ltd.?

Mr. FRIEL. Of the parent company.

Mr. BUCK. Let's have the chart [referring to "Exhibit No. 412"]. Mr. Chairman, this chart has been taken from Poor's Directory, and it shows the directors of Distillers Corporation, Seagrams Ltd., who were also directors or officers of the corporations set forth on the chart.

Now there is one point I would like to ask Mr. Friel before using the chart. As I say, it is taken from Poor's Directory. I notice Mr. Willkie as being connected with Hiram Walker & Sons. Is that correct?

Mr. FRIEL. I don't think Mr. Willkie has been a director or officer in any of their important companies since about June 1, 1937, or 1938. I am not sure.

Mr. BUCK. He was until that time?

Mr. FRIEL. Yes.

Mr. BUCK. I was wondering about that, and I wanted to call it to to your attention before using the chart, and that does show in Poor's Directory to be as indicated there as of 1938.

Mr. FRIEL. He is not a director of those companies.

Mr. BUCK. At this time. With that explanation, Mr. Chairman, he was, and the directory apparently continues to carry him, but I would like to have the chart included in the record, with that explanation.

(The chart referred to was marked "Exhibit No. 412" and is included in the appendix facing p. 2694.)

Mr. BUCK. I will ask you to look over it and see if there are any corrections to be made other than Wilkie.

Mr. FRIEL. Cleland—J. A. Forest & Co., was a subsidiary which we have in Canada, so it is one of our own companies.

Mr. BUCK. Mr. McInnerny, who is in National Dairy Products Corporation, is on your board now. Is that so?

Mr. FRIEL. That is correct.

Mr. O'CONNELL. Mr. Friel, I just wanted to clarify in my own mind something about the corporation set-up. All of the American companies are operating companies. Is that correct?

Mr. FRIEL. There are probably five or six manufacturing companies and about three selling companies.

Mr. O'CONNELL. I mean there are no holding companies.

Mr. FRIEL. Oh, no.

Mr. O'CONNELL. And the Canadian company, that is the Distillers Corporation, Seagrams, Ltd.?

Mr. FRIEL. That is right.

Mr. O'CONNELL. Does that company hold all of the stock of all of the companies that we are speaking of when you speak of the American companies?

Mr. FRIEL. It does.

May I at this time, Mr. Chairman, say this? The inference has been that these companies are a Canadian set-up. Ninety-five percent of the people, not 95, 85 percent of the people working for all of the affiliated companies, including the Canadians, are American citizens

employed in the United States. Eighty-five to ninety-five percent of the sales are in the United States; 85 percent of the assets are in the United States. The control, rather the largest number of stockholders, the majority of the stockholders are in the United States. The majority of the value of all the stock issued is held in the United States, and the majority of the board of directors are United States citizens.

Mr. O'CONNELL. Are you speaking of the Canadian company?

Mr. FRIEL. Of the parent company.

Mr. O'CONNELL. You say the majority of the stockholders are American?

Mr. FRIEL. That is right.

Mr. O'CONNELL. Could you tell me further as to the amount of stock held in proportion to the amount of stock issued by Americans?

Mr. FRIEL. I can't tell you that, but dollar value, the majority of the number of stockholders are in the United States and the majority of the value of the shares is held in the United States.

Mr. O'CONNELL. The majority of the value of the shares?

Mr. FRIEL. That is right.

Mr. O'CONNELL. That would mean, then, that more than 50 percent of the shares, if I understand you correctly, are held by people in the United States. Do you mean that?

Mr. FRIEL. Not necessarily, because some of the shares have no par value, a book value, say, of about \$20. Some have \$100.

Mr. O'CONNELL. How many classes of shares are there, Mr. Friel?

Mr. FRIEL. Two.

Mr. O'CONNELL. Voting and non-voting, or par and no-par?

Mr. FRIEL. Par and no-par, preferred and common.

Mr. O'CONNELL. The common stock has no-par value?

Mr. FRIEL. That is correct.

Mr. O'CONNELL. The preferred stock is par.

Mr. FRIEL. Yes.

Mr. O'CONNELL. The common stock represents the ownership of the company, does it not, the equity?

Mr. FRIEL. As a going concern; yes.

Mr. O'CONNELL. And they exercise the voting control.

Mr. FRIEL. That is correct.

Mr. O'CONNELL. Do you know, as regards the common stock, what the division would be along the lines we are discussing?

Mr. FRIEL. As between the countries?

Mr. O'CONNELL. Yes.

Mr. FRIEL. I wouldn't say for sure. I would have to guess at that.

Mr. DAVIS. Can you say where a majority of the common stock is?

Mr. FRIEL. The majority of the stock is in Canada.

Mr. DAVIS. Is all of your common stock voting stock?

Mr. FRIEL. Yes, sir.

Mr. DAVIS. And a majority of that you say is held in Canada?

Mr. FRIEL. That is correct.

Mr. DAVIS. In a relatively few persons?

Mr. FRIEL. It is held by a family, the Bronfman family.

Mr. DAVIS. By the Seagram family?

Mr. FRIEL. By the Bronfman family.

Mr. DAVIS. Who are some of the largest stockholders in the United States?

Mr. FRIEL. I don't know who the really large stockholders are. There is a list of all the stockholders with the Treasury Department in the Alcohol Tax Unit.

Mr. DAVIS. Did your company pay a dividend last year?

Mr. FRIEL. Yes, sir.

Mr. DAVIS. What dividend did it pay?

Mr. FRIEL. It paid a dividend of \$2, four dividends at 50 cents each. That is on the common.

Mr. DAVIS. Non-par stock?

Mr. FRIEL. On the non-par stock.

Mr. DAVIS. How much did you pass to surplus last year?

Mr. FRIEL. Credit to surplus?

Mr. DAVIS. Yes.

Mr. FRIEL. As I recall it, about \$3,000,000.

Mr. DAVIS. That was for the parent company?

Mr. FRIEL. In consolidation.

Mr. DAVIS. Do you mean that was the consolidated return?

Mr. FRIEL. That is right.

Mr. DAVIS. The parent company and the subsidiaries?

Mr. FRIEL. Consolidated balance sheet, not a consolidated return.

Mr. O'CONNELL. How many shares of common stock are outstanding for the parent company?

Mr. FRIEL. 1,742,645.

Mr. O'CONNELL. So that you paid dividends of about \$3,500,000?

Mr. FRIEL. That is right.

Mr. O'CONNELL. And approximately the same amount was added to surplus, so that the net profits would have been in the neighborhood of \$7,000,000.

Mr. FRIEL. We had \$850,000 preferred dividends.

Mr. O'CONNELL. You paid those?

Mr. FRIEL. That is right.

Mr. O'CONNELL. You wouldn't include that in the amount added to surplus, certainly.

Mr. FRIEL. No; the dividends on preferred and common together amounted to about \$4,300,000. Consolidated profits were about \$7,300,000, so you had in consolidated surplus about \$3,000,000.

Mr. O'CONNELL. I see, you include the dividend on the preferred stock in the \$7,300,000 of profits.

Mr. FRIEL. That is correct.

Mr. DAVIS. What do you find is the cost of producing or manufacturing whisky?

Mr. FRIEL. The cost of manufacturing whisky?

Mr. DAVIS. Yes; per gallon.

Mr. FRIEL. I think that would depend entirely on what the particular kind of whisky is and where it is made.

Mr. DAVIS. Well, first take bourbon in the United States.

Mr. FRIEL. Bourbon in Kentucky would probably cost, as I recall it, including the Kentucky tax and including the barrel, somewhere between 38 and 40 cents at its inception.

Mr. BUCK. But you don't figure the cost of the barrel. I think what the Judge wants to know is the cost to manufacture the whisky off the still; then we figure the aging and warehousing.



Mr. FRIEL. You have to have the barrel or you can't have the whisky.

Mr. BUCK. That goes into another bracket of costs, that goes into the bracket of storage. What does it cost to manufacture and produce a gallon of Bourbon whisky off the still?

Mr. FRIEL. Roughly somewhere between 25 and 30 cents.

Mr. BUCK. What does it cost to age it per year according to your experience, including barrels?

Mr. FRIEL. I don't know. I would have to figure that out.

Mr. BUCK. Haven't you got a pretty good idea?

Mr. FRIEL. No.

Mr. BUCK. How many gallons of whisky do you manufacture a year?

Mr. FRIEL. All together?

Mr. BUCK. Yes.

Mr. FRIEL. That I didn't check before I came down, but I imagine that we made last year somewhere around 20,000,000 gallons in the United States.

Mr. BUCK. Twenty million gallons a year and you don't know the cost of producing or aging it?

Mr. FRIEL. Parts of the cost of aging it, Mr. Buck, are charged through to expense; they are noncapitalizing items.

Mr. BUCK. Regardless of how it is charged or to whom it is charged, you mean to tell me that you, as treasurer of this big corporation engaged in nothing else but making and marketing whisky, can't say what the cost of aging a gallon of whisky is?

Mr. FRIEL. Oh, I would say it would probably cost you somewhere between \$1.50 and \$2 a barrel, probably 5 cents a gallon per year.

Mr. BUCK. Five cents a gallon per year?

Mr. FRIEL. That is correct.

Mr. BUCK. That would cover all the cost?

Mr. FRIEL. I would say so. That is on the original proof.

Mr. DAVIS. You have told the cost in Kentucky. What is it in Illinois?

Mr. FRIEL. Five cents less.

Mr. DAVIS. That is on account of tax?

Mr. FRIEL. Yes.

Mr. DAVIS. State tax?

Mr. FRIEL. That is correct.

Mr. DAVIS. You make your rye in Baltimore?

Mr. FRIEL. Yes, sir.

Mr. DAVIS. What is the cost of that?

Mr. FRIEL. Probably about the same.

Mr. DAVIS. The same as Illinois?

Mr. FRIEL. That is correct.

Mr. DAVIS. You don't have this State tax in Baltimore, such as you have in Kentucky?

Mr. FRIEL. Not at the present.

Mr. DAVIS. What is the relative cost of bourbon or rye in Canada?

Mr. FRIEL. To produce?

Mr. DAVIS. Yes, sir.

Mr. FRIEL. I would say approximately the same.

Mr. DAVIS. What is the Government tax on whisky in Canada now?

Mr. FRIEL. I don't know very much about the Government tax in Canada. I am not an officer of any of the Canadian companies, but as I recall it, it is something like \$4 on a British-proof gallon.

Mr. DAVIS. Four dollars?

Mr. FRIEL. But in addition to that, that is the only tax you have in Canada, as there is no local tax, no State tax.

Mr. DAVIS. That covers all taxes.

Mr. FRIEL. That is right, and that British-proof gallon is 11½ American gallons.

Mr. DAVIS. What is the present import duty in the United States on whisky from Canada?

Mr. FRIEL. It is \$2.50 per gallon.

Mr. DAVIS. Did I understand you to say at this time your Canadian company was not exporting any liquor into the United States?

Mr. FRIEL. I didn't say that; we are not exporting very much into the United States.

Mr. DAVIS. Immediately following repeal until you began to age your own whisky in the United States, I believe you said in reply to a question of Mr. Buck, you did export considerable into the United States immediately following repeal, in '33 on up until comparatively recently.

Mr. FRIEL. We started using that whisky about 6 months after repeal. We did not get going until about 6 months after repeal.

Mr. DAVIS. And then when did you cease exporting or importing into the United States any substantial quantities of Canadian whisky?

Mr. FRIEL. Within the past few months.

Mr. DAVIS. You are not even continuing the importation into the United States of very much Scotch-type whisky?

Mr. FRIEL. We are not bringing any Scotch-type whisky into the United States.

Mr. DAVIS. You are not?

Mr. FRIEL. No, sir.

Mr. BUCK. Mr. Friel, I think from Judge Davis' question maybe we aren't quite clear. Do you pay any Canadian tax at all on whisky that you export to the United States from Canada?

Mr. FRIEL. I am not sure, but I believe there is a validation tax in Canada of 15 cents a United States proof gallon on whisky exported out of the country.

Mr. BUCK. So that the ordinary export tax of \$4 an imperial proof gallon isn't paid on whisky brought from Canada into the United States?

Mr. FRIEL. No.

Acting Chairman REECE. The committee appreciates your attendance.

Dr. THORP. May I ask a question?

Acting Chairman REECE. Pardon me.

#### OVERPRODUCTION OF WHISKY NOT REFLECTED IN PRICE TO CONSUMER

Dr. THORP. How would you summarize the course of prices over the last few years to the consumer for whisky?

Mr. FRIEL. Basic supply and demand.

Dr. THORP. Have the prices been declining?

Mr. FRIEL. I would say they have.

Dr. THORP. As the prices have declined, is there any evidence that the lower prices have increased the volume of sales?

Mr. FRIEL. I wouldn't say so. I don't think they have.

Dr. THORP. You don't think they have?

(The witness shook his head in the negative.)

Dr. THORP. Your feeling is that lower prices of whisky will not affect the total sale?

Mr. FRIEL. I don't think it will.

Dr. THORP. So that from the point of view of the industry lower prices will not be offset by increased sales, and therefore the lower prices represent a direct charge against profits. There is no gain, as most industries have, by an increased sale?

Mr. FRIEL. I don't think there will be. You will have to wait until competition develops that point.

Dr. THORP. What happens with regard to brands, in your opinion? If prices are lowered, do people move into higher priced brands, relatively speaking? In other words, do people say they are going to spend \$1.50 for whisky, and if the prices fall, that permits them to move into a slightly better quality?

Mr. FRIEL. A small percentage. I don't think there is any real effect on it.

Dr. THORP. That is, you would then feel that consumers are sufficiently loyal to given brands that the price relationship among the brands has no appreciable effect on their choice?

Mr. FRIEL. I don't think that so much as there is a development on the part of the consumer to shift around in a certain field.

Dr. THORP. Well now, to shift that a little bit, how near capacity is the industry operating?

Mr. FRIEL. I couldn't tell you that.

Dr. THORP. Is it—I don't care for exact figures—operating close to capacity, or is it operating at 50-percent capacity, or what? Is there excess capacity in the industry? Perhaps we should put it that way.

Mr. BUCK. Charts show, Dr. Thorp, about 25 or a little better.

Dr. THORP. Twenty-five percent of capacity?

Mr. BUCK. Total capacity—a shade over that.

Dr. THORP. Has that changed appreciably during this period of the last few years? Was it nearer capacity, Mr. Buck, several years ago?

Mr. BUCK. It was operating at two fifty-four with an approximate total capacity of four twenty-five 2 years ago.

Dr. THORP. Has the capacity been increasing in the last several years?

Mr. BUCK. No; the capacity has remained about fixed, a sloughing off of about 2,000,000 gallons.

Dr. THORP. Mr. Friel, what do you see as to the future of the situation in which there is this large capacity in an industry in which the consumption cannot be increased by lower prices, as you say? Will the net result be that the industry will have to go through a period of reorganization in which a number of the present producers will have to be eliminated in order to get onto a stable basis?

Mr. FRIEL. Oh, I don't know. I think, of course, like many other industries, it is practically a new industry and over the period of time until it becomes stabilized certainly there will be some casualties.

Dr. THORP. It would be reasonable to assume, wouldn't it, that a new industry in which there was no control over capacity other than as to which individuals should operate, but no control over the amount of capacity, and an industry which had to build up large stocks, would necessarily develop a capacity in excess of that necessary for maintenance, once the stocks had been built up?

Mr. FRIEL. Well, you are not going to get any further capacity certainly until some other people, investors, are attracted into the industry.

Dr. THORP. And this existing capacity is going to be a continual pressure toward lowering prices?

Mr. FRIEL. The public will decide that.

Mr. BUCK. Do you think you could finance additional capacity with the present capacity so far over and above necessity?

Mr. FRIEL. You might. You might have somebody come in and put up a plant with all new ideas.

Mr. BUCK. You have a great faith in the sucker market, Mr. Friel.

Dr. THORP. Do you think this same principle with regard to purchasing applies in connection with the higher-priced brands? In other words, I don't want to limit this just to the lower-price brands. That may have been what you had in mind in saying lower prices would not bring in more consumers, or wouldn't sell more liquor. Would the same thing be true for Scotch, for example?

Mr. FRIEL. You mean lower prices on Scotch would develop more Scotch drinkers? I don't think so.

Dr. THORP. You don't think so?

Mr. FRIEL. No.

Dr. THORP. You don't have a feeling that there are a lot of people who are drinking lower-price liquors who would shift into more aged liquors, more quality liquor, if the price of the quality liquor were lower?

Mr. FRIEL. Your cheaper liquors are becoming older, when you are talking about age, as you go along, so that you get the increase in age in both the low-priced liquors and high prices.

Dr. THORP. So the difference between the cheaper liquor and the more expensive liquor is getting less and less in terms of quality?

Mr. BUCK. What was the difference before?

Mr. FRIEL. You say the difference between the low-priced liquors?

Dr. THORP. Yes; as the low-priced liquors are becoming older, doesn't that mean that the quality difference between the low-priced liquors and the high-priced liquors is getting less and less?

Mr. FRIEL. No; because there probably would be a tendency on the part of the high-priced liquor to extend the age on those liquors. Competition will develop that.

Dr. THORP. But can you do much with quality except for some very highly educated and sophisticated consumers in convincing them that there is a difference between, let's say, 8-year-old whisky and 20-year-old whisky?

Mr. FRIEL. It would be all according to how the whisky was made at the start and how it was kept during the 8 or 20 years, what care was paid to it.

Dr. THORP. Suppose that very great care was taken in both cases; this was a company operating at maximum efficiency so that they did the best they could and made the best 8-year-old liquor, and made the best 20-year-old liquor, would there be a difference between them sufficient to justify an appreciable price difference on the part of the consumer?

Mr. FRIEL. Yes. The man who wanted that 20-year-old whisky, if it had been properly made and properly matured, would be willing to pay the price for it.

Mr. BUCK. Any palpable distinction between the two?

Mr. FRIEL. I don't know.

Dr. THORP. As far as that situation is concerned, then, it is conceivable that we may have to educate the drinkers of the country to appreciate these older liquors if you want to maintain a price difference.

Mr. FRIEL. Age of necessity is not the determining factor. Whisky might be made to mature at an early age.

Dr. THORP. What would be the determining factor other than age?

Mr. FRIEL. The proof at which it was made; the formula of the grains.

Mr. BUCK. That wouldn't be true in the United States.

Mr. FRIEL. Yes; it would.

Mr. BUCK. Aren't the standards for the whiskies fixed in the United States?

Mr. FRIEL. By names, that is all.

Mr. BUCK. Yes; well, he is talking about types.

Mr. FRIEL. Mr. Thorp is talking about types, but types can be manufactured and we can fluctuate the formula.

Mr. DAVIS. Is there any material difference in the formulas employed by the different distillers of bourbon whisky in the United States?

Mr. FRIEL. Very much so. A bourbon whisky is one the content of which is more than 51 percent corn. The rest of it can be small grains and can fluctuate anywhere from 49 percent down to about 10 or 12.

Mr. DAVIS. I know, but I asked you whether there was any variation in the bourbon whisky.

Mr. FRIEL. If there was any what?

Mr. DAVIS. Variation in the formulas of bourbon whiskies manufactured, we will say, in Illinois.

Mr. FRIEL. That is just what I pointed out, the formula and the grain content. Bourbon whisky is one the contents of which is more than 51 percent corn. You might make it 51 percent of corn and 49 percent of rye and malt. You could make the whisky at 150 and you could make it at 155.

Mr. DAVIS. I know you can do it.

Mr. FRIEL. As to the way the whisky is made and the formula—

Mr. DAVIS (interposing). As a matter of fact, do they have an absolute definite stabilized formula which they follow without regard to price of grain?

Mr. FRIEL. Very much so.

Mr. BUCK. Taking it by any formula, your cost of production you have given would be the tops?

Mr. FRIEL. At the stills without the barrels, without any charge added on to it.

Mr. BUCK. It doesn't matter what formula it is made by. Now Dr. Thorp projected a very interesting point here, to me, that is whether or not consumption would increase if prices were reduced. Do you feel that—I might even ask Dr. Thorp if he feels that the fact that consumption would not increase would justify an unreasonable price? Do you feel that way about it?

Mr. FRIEL. No.

Dr. THORP. I don't think anything justifies an unreasonable price, by definition, almost. I would like to follow one point here that still bothers me a little bit in this picture. I may have had an erroneous impression, but my feeling was that where you have a series of products somewhat interchangeable as these are, there usually developed a price structure which involved relationships among the parts, certain things being regularly priced somewhat above other things, and that it was the usual belief that any serious shift in that price structure made for disruption and disorganization because consumers would then move from one class of the commodity to another class of the commodity.

I get the impression from your testimony that you feel that the prices of these different grades of whisky can, more or less independently, that the price of Scotch, for instance, can go up or down, and it has no appreciable effect on the consumption of or necessarily on the prices of rye. I just want to be sure that I understand you correctly on that, because it is a rather unusual situation, if that is true.

Mr. FRIEL. I think your Scotch drinker is a Scotch drinker as such, and your rye drinker is a rye drinker, and your bourbon drinker is a bourbon drinker. In other words, whatever whisky you want to drink is the drink you take.

Dr. THORP. And you think the consumers in America are rather confirmed in their habits and convictions with regard to particular types of liquor?

Mr. FRIEL. I think so.

Mr. DAVIS. I want to develop some matters to satisfy myself.

Mr. BUCK. Judge, would you permit me to put in a price list at this point, just in connection with Dr. Thorp's questions?

Mr. DAVIS. That is what I was going to ask about, price.

#### SPREAD BETWEEN PRODUCTION COST AND PRICE TO CONSUMER

Mr. BUCK. Mr. Friel, I hand you a Seagram's Metropolitan New York district price list, I suppose, where you have set up a minimum consumer bottled prices established under the fair-trade contract effective February 11, 1939. This price shows one brand of bottled-in-bond bourbon whisky to be fixed at \$5.30 a quart, doesn't it?

Mr. FRIEL. That is right.

(The price list referred to was marked "Exhibit No. 413" and is included in the appendix on p. 2695.)

Mr. BUCK. How much would that be a gallon?

Mr. FRIEL. That whisky is at least 8 or 10 years old.

Mr. BUCK. What? How much would that figure a gallon?

Mr. FRIEL. \$21.20.

Mr. BUCK. Is that imported from Canada?

Mr. FRIEL. That is correct.

Mr. BUCK. You pay no tax in Canada on that gallon, do you?

Mr. FRIEL. We pay 15 cents.

Mr. BUCK. Fifteen cents tax in Canada, and in the United States you pay what?

Mr. FRIEL. \$4.50.

Mr. BUCK. Four fifty?

Mr. FRIEL. Four seventy-five.

Mr. BUCK. Four seventy-five?

Mr. FRIEL. That is right.

Mr. BUCK. Per gallon?

Mr. FRIEL. That is correct.

Mr. BUCK. State tax in New York is what?

Mr. FRIEL. \$3.

Mr. BUCK. Are they included in that price?

Mr. FRIEL. Yes, sir.

Mr. BUCK. What?

Mr. FRIEL. They are included.

Mr. BUCK. \$1.

Mr. FRIEL. \$3.

Mr. BUCK. Three?

Mr. FRIEL. \$1 a gallon.

Mr. BUCK. That is the total of all taxes, isn't it—\$5.80?

Mr. FRIEL. \$5.90.

Mr. BUCK. \$5.90 taxes. Now you say at the most it costs 28 cents to manufacture.

Mr. FRIEL. No; I didn't.

Mr. BUCK. What does it cost?

Mr. FRIEL. That whisky might have cost \$1, or \$1.25. It was manufactured 10 years ago in Canada.

Mr. BUCK. How in the world could it cost \$1.25?

Mr. FRIEL. I would have to check that.

Mr. BUCK. It cost you—

Mr. FRIEL (interposing). It costs 5 cents a gallon to carry for a year.

Mr. BUCK. I am coming to that, but I am asking what it costs to manufacture the whisky and get it off the stills.

Mr. FRIEL. I don't know, I would have to look back.

Mr. BUCK. My dear man, don't you know it couldn't have cost more than 28 or 30 cents?

Mr. FRIEL. It might have cost double that or triple that.

Mr. BUCK. Let's say it did cost twice as much as that, let's say it cost 50 cents a gallon to get it off the still—which of course it didn't, in my opinion—and let's say it was 10 years old. It costs 5 cents a year to age it, doesn't it?

Mr. FRIEL. That is right.

Mr. BUCK. That is another 50 cents.

Mr. FRIEL. Right.

Mr. BUCK. The cost plus aging is \$1.

Mr. FRIEL. You have a barrel in there.

Mr. BUCK. That was included in the 5 cents.

Mr. FRIEL. No.

Mr. BUCK. How much per gallon?

Mr. FRIEL. Fifteen cents in Canada.

Mr. BUCK. Fifteen cents for a barrel. Any more?

Mr. FRIEL. You have overhead.

Mr. BUCK. Isn't that included in the 5 cents for aging?

Mr. FRIEL. No, sir.

Mr. BUCK. Your corporate expenses are not included, of course, but \$1.15 and \$5.90—that is \$7.05 for taxes plus known costs to manufacture per gallon.

Mr. FRIEL. You have your packing on there.

Mr. BUCK. That is 40 cents.

Mr. FRIEL. What?

Mr. BUCK. Packing—10 cents a bottle.

Mr. FRIEL. No; it costs you more than that in Canada.

Mr. BUCK. Why does it cost you more to pack a bottle of whisky in Canada than in the United States?

Mr. FRIEL. It does.

Mr. BUCK. Why?

Mr. FRIEL. Because operating charges and basic costs are higher.

Mr. BUCK. You mean labor is higher in Canada than in the United States?

Mr. FRIEL. No; but operations are smaller.

Mr. BUCK. What does it cost in Canada?

Mr. FRIEL. I would say that would cost between 50 and 60 cents.

Mr. BUCK. Let's give you 50 cents. All right, that is \$7.55 so far. Any other known costs in there?

Mr. FRIEL. Freight.

Mr. BUCK. What is that on a gallon?

Mr. FRIEL. Ten cents.

Mr. BUCK. That is 65. Do you think of any more?

Mr. FRIEL. No.

Mr. BUCK. All right, \$7.65 from \$21.20 to the consumer leaves a difference of \$13.55 between the consumer's cost and known cost to the manufacturer to take care of distribution, is that right?

Mr. FRIEL. That is right. That includes, of course, the retailer's profit and the wholesaler's profit.

Mr. BUCK. That includes the whole distribution system?

Mr. FRIEL. That is right.

Mr. DAVIS. Mr. Thorp asked you several questions predicated upon the theory that there has been a reduction in the price of whisky. We all know, of course, that after repeal high prices were exacted and obtained for old whiskies which had been manufactured in pre-Volstead days, but I want to ask you if your company has made any material reduction in the prices of comparable liquor within the past 3 or 4 years.

Mr. FRIEL. We have not made any material reductions outside of one reduction in 1936, at which time we reduced our price, as I recall it, oh, probably 15 percent, at the time the tariff was reduced, when we added part of our profit on to the tariff-reduction charge. We have made several smaller decreases.

Mr. DAVIS. Was that on Canadian liquor?

Mr. FRIEL. It was on American blended whisky.



Mr. DAVIS. But blended out of Canadian liquor?

Mr. FRIEL. Partly of Canadian whisky.

Mr. DAVIS. That was in 1936, and relating entirely to a reduction in tariff.

Mr. FRIEL. No; part of the reduction was part of our profit.

Mr. DAVIS. You reduced it from what previous price? In other words, was that your 5- and 7-year-old blended, that is, your two brands you are talking about?

Mr. FRIEL. They were reduced at that time.

Mr. DAVIS. Seagram's—

Mr. FRIEL (interposing). Five and Seven Crown.

Mr. DAVIS. You reduced it from what you had been selling the previous year, you mean.

Mr. FRIEL. That is correct.

Mr. DAVIS. Well, now, what is the present consumer price on those same brands?

Mr. FRIEL. The present consumer price—

Mr. DAVIS (interposing). On Five and Seven Crown.

Mr. FRIEL. The present consumer price is \$1.20 per pint of whisky in New York City.

Mr. DAVIS. How much a quart?

Mr. FRIEL. Per quart, \$1.90.

Mr. DAVIS. \$1.90. You mean the consumer cost or your price to the wholesaler?

Mr. FRIEL. Consumer price.

Mr. DAVIS. \$1.90 a quart for Five Crown. How much for Seven Crown?

Mr. FRIEL. \$2.80.

Mr. DAVIS. That is the same as the price you fixed in 1936, is it?

Mr. FRIEL. No; that is slightly lower. In 1936 I think we were getting \$1.19, and to that we added the tax increase of last July.

Mr. DAVIS. And made it how much?

Mr. FRIEL. The tax increase last July was about 10 cents a pint.

Mr. DAVIS. Well, that is no material change, is it?

Mr. FRIEL. Actually, today our price is about \$1.10 on the same old tax basis as against probably \$1.42 at that time.

Mr. DAVIS. But summing it all up, as a matter of fact, there have been no material reductions in the price of the same character and same age of whisky, have there, in the United States?

Mr. FRIEL. There have been material reductions; there have been reductions.

Mr. DAVIS. Well, now, will you please furnish for the record your prices for each of the years on the exact, same type of whisky, from repeal up to your last price.

Mr. FRIEL. Here is a copy right here.

Mr. BUCK. This is the same age whisky all the way through?

Mr. FRIEL. Increased formula.

Mr. DAVIS. I think that ought to be printed in the record.

Acting Chairman REECE. That may be included in the record.

(The tabulation was marked "Exhibit No. 414" and is included in the appendix on p. 2696.)

Mr. O'CONNELL. I gathered from your testimony that in New York, at least, your company, by contract, fixes the resale price of its liquors to the consumer. Is that correct?

Mr. FRIEL. That is correct.

Mr. O'CONNELL. Do you do that in other States?

Mr. FRIEL. Wherever it is permissible, in the majority of States.

Mr. O'CONNELL. I take it that is in most States.

Mr. FRIEL. I am not sure whether we do it in every State where it is permissible or not.

Mr. O'CONNELL. You couldn't tell me whether it is the policy of your company to take advantage of the fair-trade law where one exists so that in all probability if there are fair-trade laws in over 40 States, as I understand there are, the probabilities are that you take advantage of those laws and fix the resale price of your products by contract. Is that correct?

Mr. FRIEL. We do.

Mr. O'CONNELL. What steps do you take to enforce the provisions of your contracts which maintain a resale price of your products?

Mr. BUCK. Mr. O'Connell, I have that to be brought out by another witness in another phase of the proceedings. It is perfectly all right; I have no objection to the questions.

Acting Chairman REECE. You may call your next witness.

Mr. BUCK. That is all, Mr. Friel. Thank you very much.

Just one more question. Is the Seagram exporting aggregation members of the Distilled Spirits Institute?

Mr. FRIEL. We are.

Mr. BUCK. What services does that institute perform for your organization?

Mr. FRIEL. Oh, I would say the general welfare of the industry in the country.

Mr. BUCK. And the country?

Mr. FRIEL. In the country.

Mr. BUCK. What, in specific, does it do for you?

Mr. FRIEL. Frankly, I would have to think that over to give you any kind of intelligent answer, Mr. Buck.

Mr. BUCK. You pay it considerable money, don't you?

Mr. FRIEL. Yes; we do.

Mr. BUCK. How much have you paid it in 4 years?

Mr. FRIEL. You have the record, I think, right in there.

Mr. BUCK. Our record shows \$118,605.43. I imagine that is for the 4-year period. And you don't know what services it performs for you?

Mr. FRIEL. Well, it watches the legislation and the general practice of the industry throughout the country.

Mr. BUCK. That is all.

Mr. Jacobi, please.

Acting Chairman REECE. Do you solemnly swear in the testimony which you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JACOBI. I do.

#### TESTIMONY OF LESTER E. JACOBI, PRESIDENT, SCHENLEY DISTILLERS CORPORATION, NEW YORK CITY

Mr. BUCK. Mr. Chairman, Mr. Jacobi, the present witness, is president of the Schenley Distillers Corporation, of New York. Will you state your name, Mr. Jacobi?

Mr. JACOBI. Lester E. Jacobi.

Mr. BUCK. Of New York?

Mr. JACOBI. Of New York City.

Mr. BUCK. I want to say that Mr. Jacobi, while he has been connected with the corporation for many years—I think perhaps since its organization—has been president only a short time. He succeeded his brother, who was president, and lately deceased.

#### CORPORATE ORGANIZATION OF SCHENLEY DISTILLERS CORPORATION

Mr. BUCK. Mr. Jacobi, can you give the committee a short résumé of the organization and evolution of the Schenley Corporation?

Mr. JACOBI. The present corporation was organized in July 1933, having acquired the old Schenley Products Co. The Schenley Products Co. was a corporation owning two distilleries, one in Pennsylvania and one in Kentucky. It acquired the stock of the Schenley Products Co. by an exchange of its stock, and also at that time sold publicly a portion of its stock.

Mr. BUCK. Let's begin at the beginning. When was Schenley Distillers Corporation organized?

Mr. JACOBI. July 1933.

Mr. BUCK. So you have a clean slate beginning with repeal?

Mr. JACOBI. Beginning with repeal.

Mr. BUCK. That slightly anticipated repeal. You began in July.

Mr. JACOBI. It was in contemplation of repeal.

Mr. BUCK. What did you have at that time to begin with in the way of finance, for instance?

Mr. JACOBI. Why I think our company's capitalization at the beginning was about \$8,000,000.

Mr. BUCK. Was that cold money? I mean was it cash money?

Mr. JACOBI. No; it was represented by the assets of Schenley Products Co. which was taken into the new corporation, and the proceeds of sale of 230,000 shares of common stock at \$15 a share.

Mr. BUCK. In other words, you started off with money principally derived from the sale of stocks.

Mr. JACOBI. The sale of 230,000 common shares.

Mr. BUCK. And \$8,000,000.

Mr. JACOBI. I think that was about the figure.

Mr. BUCK. And that was in 1933?

Mr. JACOBI. July 1933.

Mr. BUCK. The twenty-first amendment became effective December 1933.

Mr. JACOBI. Yes.

Mr. BUCK. What is the present corporate set-up of Schenley's?

Mr. JACOBI. Outstanding stock?

Mr. BUCK. No; I mean in the number of units. How many corporations do you have?

Mr. JACOBI. Oh, we probably have 40 or 50 subsidiary companies, not all operating companies, however. We have about 8 or 10 active companies.

Mr. BUCK. Is Schenley Distillers Corporation a holding company or operating company?

Mr. JACOBI. It is an operating company insofar as the Schenley Distillers Corporation is concerned. It is operative as far as distribu-

tion and sales are concerned. We manufacture in the subsidiary companies.

Mr. BUCK. You have 40 or 50 subsidiaries?

Mr. JACOBI. I think there are probably that many in existence but not operating, not active.

Mr. BUCK. Are all of your subsidiaries in the United States?

Mr. JACOBI. Yes.

Mr. BUCK. Do you have any foreign holdings at all in the whisky business?

Mr. JACOBI. Yes; we own some Canadian whiskies that were purchased shortly after repeal.

Mr. BUCK. Are they held in Canada or in the warehouse here?

Mr. JACOBI. Both. We have some stored here and we have some stored in Canada.

Mr. BUCK. But you have no corporate interest in any of the corporations in Canada?

Mr. JACOBI. None whatever, direct purchase of whisky.

Mr. BUCK. None in Scotland or Ireland?

Mr. JACOBI. We own no whiskies in other foreign countries. We do import some Scotch whiskies and we do import some Irish whiskies which we sell under contract.

#### BANKING ARRANGEMENTS OF THE SCHENLEY CORPORATION

Mr. BUCK. Who are your banking agents, Mr. Jacobi; for your corporations, I mean?

Mr. JACOBI. You mean for our active banking accounts?

Mr. BUCK. Yes.

Mr. JACOBI. We have 3 in New York City: Bankers Trust Co., Bank of Manhattan, National City Bank, Manufacturers Trust Co.

Mr. BUCK. Bankers Trust?

Mr. JACOBI. Yes; I named them, I think. Underwriters Trust Co. and the Commercial National Bank & Trust Co. We also do business with banks throughout the country. Wherever we have offices we have banking connections—Chicago, San Francisco, Los Angeles.

Mr. BUCK. They are usually utilized by the subsidiaries?

Mr. JACOBI. Whichever way the account may be handled—I mean, usually deposit and checking accounts.

Mr. BUCK. Do you have an open-credit agreement with Bankers Trust Co.?

Mr. JACOBI. We have a banking agreement with 22 banks of which the Bankers Trust Co. is one.

Mr. BUCK. What is the maximum under that agreement, the maximum credit?

Mr. JACOBI. \$27,000,000.

Mr. BUCK. \$27,000,000?

Mr. JACOBI. Yes.

Mr. BUCK. Who is the banker's agent under the agreement, or who are the agents?

Mr. JACOBI. Why, I think the Bankers Trust Co. might be termed that. I don't know that they are directly an agent; they being a New York bank represent the outside banks, no doubt.

Mr. BUCK. Is Mr. Keidel the banker's agent?

Mr. JACOBI. No; I think Mr. McGee—Mr. Hugh McGee.

Mr. BUCK. I have just referred to an agreement with Seagrams. I think it is very similar to perhaps the one that your companies have.

Mr. JACOBI. I am not familiar with Seagrams very much.

Mr. BUCK. Mr. Keidel is a member of your board of directors?

Mr. JACOBI. Yes.

Mr. BUCK. Is that agreement still in effect?

Mr. JACOBI. Yes, sir.

#### SCHENLEY'S ACQUISITION OF WHISKY STOCKS

Mr. BUCK. Beginning with 1933, how did Schenley acquire its stocks of whisky to meet the demand immediately following the repeal?

Mr. JACOBI. Why, we started out with about 5,000,000 or 6,000,000 gallons of whisky.

Mr. BUCK. How did you get that?

Mr. JACOBI. Acquired it and accumulated it through the many preceding years. The present corporation acquired it from the Schenley Products Co. which has been in existence a great many years, probably one of the oldest distilling companies in America.

Mr. BUCK. You bought it; bought the stocks?

Mr. JACOBI. Well, the present principal active officers of Schenley Distillers Corporation were the active heads of the old Schenley Products Co., and it was a reorganization you might say.

Mr. BUCK. Have you acquired any stocks from competing companies since that date?

Mr. JACOBI. Since 1933?

Mr. BUCK. Yes.

Mr. JACOBI. Yes; I wouldn't say from competing companies. We acquired a stock of whiskies in 1933, just at the time of our reorganization. In fact, I think it was really acquired by the old Schenley Products Co. It may have been delayed so as to be taken into the new corporation, but it was practically at the same time. In July of 1933 we acquired the James E. Pepper Co. of Lexington, Ky.

Mr. BUCK. What other corporations' stocks have you acquired?

Mr. JACOBI. We acquired the Bernheim Distilling Co. in 1937.

Mr. BUCK. What were the Bernheim stocks composed of?

Mr. JACOBI. Both whiskies and property.

Mr. BUCK. Kentucky bourbon whiskies?

Mr. JACOBI. Yes.

Mr. BUCK. What about the ages?

Mr. JACOBI. All the whiskies practically that they had produced. The Bernheim Distilling Co. was not an active selling company. As a matter of fact, they sold no whisky in cases. They operated two plants, one they had never sold a barrel of whisky from—it was known as the Belmont Distilling Co. All of that whisky was stored for aging. The Bernheim Distilling Co. manufactured only for sale in bulk.

Mr. BUCK. How many gallons were involved in that transaction, approximately?

Mr. JACOBI. Oh, I should say offhand—I wouldn't want to give this as accurate although it is probably in our questionnaire—probably five or six million gallons.

Mr. BUCK. How were the Bernheim stocks looked upon by the trade at that time generally? What was the opinion of them?

Mr. JACOBI. Probably as being the finest whiskies manufactured in America.

Mr. BUCK. And also constituting a backlog of aged whiskies?

Mr. JACOBI. Yes.

Mr. BUCK. You had plenty of whisky at that time, as a matter of fact, didn't you?

Mr. JACOBI. No; the real purpose of acquiring the Bernheim plant was due to the fact that we had very little aged whisky at the beginning of repeal.

Mr. BUCK. But you had plenty of young whiskies?

Mr. JACOBI. No. Very young whiskies, yes; and then we acquired the Pepper plant in July of 1933 and that plant burned down in April of 1934 which deprived us of all our aging whiskies, and from the time of that fire we had been endeavoring to acquire other whiskies to replace it, and the first opportunity we had was to acquire the Bernheim plant.

Mr. BUCK. Did the Bernheim plant have a distillery and bottling plant?

Mr. JACOBI. They had no bottling plant; they had a distillery.

Mr. BUCK. Did you acquire it?

Mr. JACOBI. Oh, yes.

Mr. BUCK. What other stocks have you acquired, if you can remember? Just give them to us chronologically.

Mr. JACOBI. I don't think we have made any other acquisitions of stocks.

Mr. BUCK. Any other acquisitions of competing or potentially competing plants?

Mr. JACOBI. No; none. We have acquired no plants.

Mr. DAVIS. How many brands have you acquired since repeal?

Mr. JACOBI. I would say we have acquired one of any consequence.

Mr. DAVIS. Which was that?

Mr. JACOBI. The Cascade brand.

Mr. DAVIS. You are manufacturing Cascade whisky now?

Mr. JACOBI. Yes, sir; at Frankfort and Lexington.

Mr. DAVIS. You are employing sour-mash process?

Mr. JACOBI. Yes, sir; we employ both in our various plants, sour mash and sweet mash.

Mr. DAVIS. You mean you are employing both in the same distillery?

Mr. JACOBI. Oh, no; in our various plants.

Mr. DAVIS. I was asking about Cascade.

Mr. JACOBI. Cascade is a sour mash. As a matter of fact, I would like to correct that, Judge; Cascade is a blend of straight whiskies when bottled. The Cascade whisky as distilled is a sour mash.

Mr. DAVIS. You have no aged Cascade whisky?

Mr. JACOBI. No.

Mr. BUCK. At the time you acquired the brands you didn't acquire corresponding stock of Cascade whisky?

Mr. JACOBI. It was not an active company.

Mr. BUCK. There was no stock?

Mr. JACOBI. None whatever.

Mr. BUCK. You immediately put the brand in use?

Mr. JACOBI. No; we didn't put the brand in use for about 2 years after acquiring it.

Mr. BUCK. What age whiskies did you bottle under the brand?

Mr. JACOBI. Blended straight whiskies, and the youngest whisky in the blend is 3 years old.

Mr. BUCK. Then the whisky that you did put in the bottle and brand Cascade was not manufactured particularly upon what might be termed a Cascade formula because you didn't have the brand at the time the stuff was manufactured; is that it?

Mr. JACOBI. Well, we did accomplish the same thing; in buying the brand we bought the goodwill of the company as it existed, and we also acquired the original formula for manufacturing Cascade, and we have followed that formula.

Mr. BUCK. Yes; but there hasn't been sufficient time lapsing between the time of acquisition of the brand and the time you first put the brand on the market to make that whisky, even if you had the formula.

Mr. JACOBI. There is no real necessity of manufacturing whisky under the name of Cascade. Cascade is a trade name.

Mr. BUCK. Let's stick to the formula. If it is significant, I say you didn't have the time to manufacture that whisky.

Mr. JACOBI. Originally, no; but we do have a process that accomplishes the same purpose.

Mr. DAVIS. But what you are selling now as Cascade is a blend of straight whiskies.

Mr. JACOBI. Yes, sir.

Mr. DAVIS. None of that is sour-mash whisky?

Mr. JACOBI. Yes, sir.

Mr. DAVIS. What proportion?

Mr. JACOBI. Oh, I couldn't say that offhand, Judge, I haven't the formula in my mind, but I would assume that a great part of it is because it is mostly Kentucky whiskies, if not all.

Mr. DAVIS. Of course, you understand that Cascade was originally a Tennessee whisky.

Mr. JACOBI. Yes; I know its history quite well and I am sure that you do.

Mr. DAVIS. How many brands does your company own all told?

Mr. JACOBI. Oh, I would assume that we own a couple of hundred.

Mr. DAVIS. How many are you marketing? I mean under how many brands are you marketing whisky now?

Mr. JACOBI. Roughly, 25 actively.

Mr. DAVIS. And that includes bourbon and rye.

Mr. JACOBI. Bourbons and ryes, yes; and blends and straight whiskies.

Mr. DAVIS. And you are not manufacturing any Scotch-type whisky?

Mr. JACOBI. No.

Mr. DAVIS. Do you import your Scotch?

Mr. JACOBI. We import Scotch.

Mr. DAVIS. That is all.

Dr. THORP. May I follow that just for a moment as to what the trends have been with regard to the different brands? I suppose

that immediately after repeal your sales were very largely quite young whisky. What is the present ratio in terms of the use of whisky that is 4 years or more as against whisky that is under 4 years?

Mr. JACOBI. For our company, our sales of whiskies under 4 years old will represent about 70 percent of our sales.

Dr. THORP. Is there a steady shift toward the more aged whiskies?

Mr. JACOBI. That is our ultimate aim and as a matter of fact we have increased ages and qualities as rapidly as possible.

Dr. THORP. Would you hope eventually to reach a situation where it was not necessary to put on the market any whisky less than 4 years of age?

Mr. JACOBI. I don't think that would be practical.

Dr. THORP. Why wouldn't it be practical?

Mr. JACOBI. I don't think there would be enough money to finance the aging of it.

Dr. THORP. That is, to carry the stock?

Mr. JACOBI. To carry all stocks until they became 4 years of age.

Mr. BERGE. How much does that add to the cost per barrel or gallon?

Mr. JACOBI. It doesn't add materially to the cost, but it adds materially to the cost of financing and the ability to finance.

Dr. THORP. To what extent has there been a development of financing through warehouse certificates?

Mr. JACOBI. I don't think any of the substantial companies finance through warehouse certificates.

Dr. THORP. Your feeling would be that you are somewhat near now the total volume of stocks that can be financed in this country?

Mr. JACOBI. Well, I wouldn't say that that is accurate, but I think we have probably reached the peak of warehousing stocks.

#### IMPORTANCE OF AGING WHISKY

Dr. THORP. Was it true that in the earlier era of the alcohol industries this youthful whisky was not sold at that time? Wasn't the market entirely the aged whiskies?

Mr. JACOBI. No; that is not true. As a matter of fact, we started selling whiskies which were made by the special processes when they were as young as 3 months.

Dr. THORP. But I am thinking now of back 20 and 30 years ago.

Mr. JACOBI. No; I think 20 and 30 years ago there was a great quantity of young whisky sold; there always has been in the lower-priced brackets, a very large percentage of the business was in young whiskies.

Dr. THORP. Do you feel that there is any considerable public interest in getting older whiskies if possible?

Mr. JACOBI. I personally don't think the public are much interested in the age of whiskies. I think they are very susceptible to the quality of whiskies. Age alone does not make good whisky.

Dr. THORP. Doesn't age help any whisky?

Mr. JACOBI. Age is essential to all whiskies. However, age alone does not make good whisky. A whisky not properly made will not improve by age.



Dr. THORP. Yes; but without age it can't reach the same quality.

Mr. JACOBI. I say age is essential to all whiskies.

Dr. THORP. So that from the point of view of the consumer it would be desirable, if possible, to have more and more of the consumption take to forms of aged whiskies; there would be a better quality then.

Mr. JACOBI. Yes; up to a certain point.

Mr. DAVIS. Mr. Jacobi, do you understand from your experience that whisky improves or undergoes any perceptible change after it is bottled?

Mr. JACOBI. We believe that its character changes practically none after in glass.

Mr. DAVIS. And that is the reason you have to carry it in the original barrels, to age?

Mr. JACOBI. That is correct, sir.

Mr. DAVIS. That is my understanding.

Mr. JACOBI. Yes, sir.

Mr. O'CONNELL. Mr. Jacobi, I understood you to say a few moments ago that you doubted the possibility of having most whisky 4 years old or better because of the cost of carrying it for that length of time, of holding it. Our figures are, that we had yesterday, to the effect that there are some 460,000,000 gallons of whisky held in stock at the present time. Is most of that, would you know, held in wood for aging, or is it bottled?

Mr. JACOBI. That is entirely in wood. All the records comprise whiskies in bonded warehouses.

Mr. O'CONNELL. If the figures as to consumption, which are to the effect that only about 70,000,000 gallons of whisky are consumed in a year are correct, it seems to me that almost all or a substantial part of that 460,000,000 gallons of whisky is going to be 4 years old or more before it can possibly be sold.

Mr. JACOBI. No; I didn't say that the cost of carrying whisky 4 years would be prohibitive; that is, the carrying charge, as has been testified to here. One of the more important costs of carrying whisky is the financing and the ability to finance. I don't think it would be possible for any of the companies, even the larger companies, to finance whisky until all of it became 4 years of age.

Mr. O'CONNELL. You don't think that there is any unreasonable or undue burden of the financial charge of carrying the present stock?

Mr. JACOBI. There is temporarily; but that will be disposed of within the next year or two.

Mr. O'CONNELL. The whisky will be disposed of?

Mr. JACOBI. The burden will be disposed of by the reduced production that is now in process.

Mr. O'CONNELL. Yes; but if we have 460,000,000 gallons of whisky in stock at the present time, the only way we can reduce the period of holding that stock is sell the stock.

Mr. JACOBI. That is correct.

Mr. O'CONNELL. If you sell 70,000,000 gallons, certainly more than half of 460,000,000 gallons a year would be more than 4 years old before disposed of. So it seems to me along the line of Dr. Thorp's question, there should be a very, very substantial increase in the amount of 4-year-old whisky available.

Mr. JACOB. There undoubtedly will be, and the prices of 4-year-old whiskies will be commensurate with the other ages within another year or 2 years, in my opinion.

Mr. O'CONNELL. There will probably be a substantial decrease in the price?

Mr. JACOB. Yes.

Mr. BERGE. Do you think that decrease in price will have the effect of shifting consumption more and more to the older whiskies?

Mr. JACOB. Well, as I said before, I don't think age is a factor. I think it is brand value and quality under those labels.

Mr. BERGE. But I am assuming the same brand. You have brands, do you not, in whiskies that are sold when 2 or 3 years old, and also as 4-year-old whisky?

Mr. JACOB. To answer your question better, we have continuously increased the age of our various brands. Brands that are currently selling today as 3-year-old whisky were originally put on the market at 3 months old.

Mr. BERGE. The real thing I want to get at is this: Will not the cheaper price tend to shift the consumption to the bottled-in-bond whisky, the 4-year-old whisky, making due allowance for brands and other factors? If the bonded whisky were cheaper, there would be more proportionately consumed, would there not?

Mr. JACOB. It is our opinion there is no great public demand for bottled-in-bond whiskies.

Mr. BERGE. Is that not because the price is relatively high?

Mr. JACOB. I think it is a matter of public taste.

Mr. BERGE. You think the public would prefer the younger whisky?

Mr. JACOB. Not necessarily younger whiskies.

Mr. BERGE. If they were able to buy the better whiskies?

Mr. JACOB. Not necessarily younger whiskies, but lighter whiskies, lower in proof, and what is bottled in bond is always 100 in proof. As a matter of fact, in preprohibition days bottled in bond did not exceed 12 percent of the total business. It was during the prohibition era when it was only possible for medicinal whisky to be sold as bottled in bond that bottled in bond became a public figure in the whisky business.

Dr. THORP. Why will this come down then if it is not going to attract more consumers?

Mr. JACOB. A matter of commercial practice. It is certainly our desire to give the best quality possible; that has been our aim, and we go largely into the low-priced-bracket field.

Acting Chairman REECE. It is now 12 o'clock, Mr. Buck. What are your plans or wishes with respect to the program?

Mr. BUCK. Mr. Chairman, I had hoped to finish with the four companies on their corporate finance this morning. I am about one-half day behind with that, and I would appreciate it if I could call one more witness before the present adjournment, and we could come back at 2 o'clock, and I think we can catch up on the program.

Acting Chairman REECE. If that is agreeable to the committee, we will continue for a period of time, and I presume the length of time that will be necessary to finish with the witness will depend on the number of questions which may be propounded.

Mr. BUCK. As you have noticed, I have considerably shortened this this morning over what we gave Mr. Porter yesterday in the way of

questions, and I have had to do it in order to keep within the allotted time. I will ask Mr. Jacobi just two more questions.

According to the report made in answer to the questionnaires submitted to your company, Mr. Jacobi, you have spent approximately \$15,000,000 over the past 4 years in advertising. Is that approximately correct?

Mr. JACOBI. I would think so.

Mr. BUCK. Your company is also a member of the Distilled Spirits Institute?

Mr. JACOBI. Yes.

Mr. BUCK. What services does that institute render the company?

Mr. JACOBI. Why, they look after the general welfare of the industry insofar as regulations and legislation are concerned.

Mr. BUCK. That is all.

I will put the chart of directors of Schenley on the board right quick, so it might be put into the record in regular form according to the others. This chart, like the rest, I think, is taken from Poor's Manual.

Mr. Jacobi, I realize your brother Harold is no longer connected with the company. With that exception, are there any changes to your knowledge?

Mr. JACOBI. Our last financial statement has the correct list of directors. May I take a look at that? That is a correct list. We have nine directors.

Mr. BUCK. I will ask that the chart be included in the record.

Acting Chairman REECE. And printed?

Mr. BUCK. Yes.

(The chart referred to was marked "Exhibit No. 415" and is included in the appendix on p. 2696.)

Mr. JACOBI. I'm sorry; Mr. Becker is not a director.

Mr. BUCK. Mr. Becker and Mr. Harold Jacobi are no longer directors.

All right, Mr. Jacobi. Thank you very much.

Acting Chairman REECE. Call your next witness.

Mr. BUCK. Mr. Walton, will you step up to the committee table, please.

Acting Chairman REECE. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WALTON. I do.

#### TESTIMONY OF HOWARD R. WALTON, VICE PRESIDENT AND GENERAL MANAGER, HIRAM WALKER & SONS, INC., DETROIT, MICH.

Mr. BUCK. Mr. Walton, will you state your name, address, and business connection, please, sir?

Mr. WALTON. Howard R. Walton, vice president and general manager, Hiram Walker & Sons, Inc., Detroit, Mich.

Mr. BUCK. Mr. Chairman, I would like to say here that Mr. H. C. Hatch is the president of this corporate group, I believe. I have tried to reach him and I find he is in Europe some place, and I haven't been able to get in touch with him, so Mr. Walton is here in his place.

## CORPORATE ORGANIZATION OF HIRAM WALKER-GOODERHAM &amp; WORTS, LTD.

Mr. BUCK. Mr. Walton, will you briefly give the committee a résumé of the origin and evolution of the Hiram Walker corporations?

Mr. WALTON. Yes, sir.

The parent firm, Hiram Walker-Gooderham & Worts, Ltd., was incorporated in Canada in 1927 under the laws of Canada. It owns in Canada Hiram Walker & Sons, Ltd., located at Walkerville; Gooderham & Worts, Ltd., located at Toronto, and James Barclay & Co., Limited, which is primarily a Canadian sales company. It also owns in the United States Hiram Walker & Sons, Inc., at Peoria, which is a manufacturing company. Hiram Walker & Sons, Inc., owns the American sales companies of Hiram Walker, Incorporated, Gooderham & Worts, Ltd., and James Barclay & Co., Limited. There are some other United States subsidiaries, Mr. Buck, which were created largely in view of State law; the Massachusetts Corporation,<sup>1</sup> which had to be incorporated in order to conduct sales operations in the State of Massachusetts. I believe that is the only one.

Mr. BUCK. Mr. Walton, how many subsidiaries are there in the United States?

Mr. WALTON. Well, I have enumerated those four. If you will let me refer to a chart I will be glad to add any more. There may be one or two others. There is Hiram Walker & Sons Western, Inc., which is a California company and which owns a rectifying plant on the Pacific coast, in San Francisco. Then there is the Massachusetts—I think I have enumerated all of them.

Mr. BUCK. That takes care of your corporate subsidiaries in the United States?

Mr. WALTON. That's right.

Mr. BUCK. How many in Canada?

Mr. WALTON. In Canada we have the three. I don't recall any others.

Mr. BUCK. What other foreign subsidiaries or associate corporations do you have?

Mr. WALTON. The parent company also owns our properties in Scotland, which are owned by Hiram Walker & Sons, Scotland, Ltd. That company in Scotland owns a lot of subsidiary companies, I would say 20 or 25, most of which are merely brand-name companies.

Mr. BUCK. That is in Scotland?

Mr. WALTON. That's right, sir. There are three companies in that group which are more than brand-name companies, I would say, namely, one company which owns a small malt distillery, a second which owns another small malt distillery in Scotland—just those two, as a matter of fact.

Mr. DAVIS. You mean barley malt?

Mr. WALTON. To make malt whiskies exclusively, Judge, in northern Scotland.

Mr. DAVIS. All of the Scotch whisky made in Scotland is made from barley, is it not?

Mr. WALTON. Barley malt.

Mr. DAVIS. Either barley itself or barley malt.

Mr. WALTON. That's right, sir. All the Scotch malt whiskies are. I assume that is what you refer to.

Mr. BUCK. As I understand it, Hiram Walker & Co. is one of the old companies in the whisky business. How long has it been in operation from the beginning of the thing?

Mr. WALTON. I have heard it said, Mr. Buck, that Hiram Walker formed this company, the original Hiram Walker formed the old company of Hiram Walker, Ltd., way back in 1858, I think it was.

Mr. BUCK. And one of your principal brands in the United States before prohibition was Canadian Club?

Mr. WALTON. Yes, sir.

Mr. BUCK. I bring that out so that the committee might associate it with the particular corporation, and it still is a leading brand here?

Mr. WALTON. It still is a very prominent brand with us.

Mr. BUCK. As I understand it, you have recently constructed a very modern and very large plant in this country.

Mr. WALTON. Yes; that plant was started late in the fall of 1933 at Peoria, Ill. It was completed in the spring of 1934 and went into production the early part of 1934.

Mr. BUCK. How does it compare with other distilleries in the United States?

Mr. WALTON. In point of size, Mr. Buck?

Mr. BUCK. In point of size.

Mr. WALTON. We think it is the largest distillery in the United States.

Mr. DAVIS. What is the capacity?

Mr. WALTON. The capacity is about 100,000 gallons a day if operated at full capacity. However, we have never operated at full capacity.

Mr. BUCK. That is on a 24-hour basis?

Mr. WALTON. That's right, sir.

Mr. BUCK. So, when repeal came in December 1933, in the United States, what did you have here in the way of corporate organization and set-up?

Mr. WALTON. We had nothing, to my knowledge.

Mr. BUCK. Nothing?

Mr. WALTON. That's right, sir.

Mr. BUCK. You entered the field anew, so to speak?

Mr. WALTON. That's right.

Mr. BUCK. How did you enter it? What was the organization, the mechanics?

Mr. WALTON. This, of course, will have to be my recollection. I was not with the company until after repeal. It is my understanding, and this is all confirmed in our questionnaire, that the company took steps toward the erection of the Peoria distillery prior to repeal in anticipation of repeal.

Mr. BUCK. In other words, your people in Canada thought repeal was coming?

Mr. WALTON. They thought they saw repeal coming.

Mr. BUCK. So they stepped into this country; and did they organize a new corporation?

Mr. WALTON. A new corporation was formed at that time.

Mr. BUCK. What is that?

Mr. WALTON. That is Hiram Walker & Sons, Inc.

Mr. BUCK. And they in turn built the plant at Peoria?

Mr. WALTON. That's right, sir.

Mr. BUCK. I see.

From that date on, what has been the chronological corporate evolution in the United States?

Mr. WALTON. When repeal took place, obviously Hiram Walker was desirous of entering the United States market. They formed Hiram Walker, Incorporated, which was a selling company and is a selling company. Also at that time was formed Gooderham & Worts, Ltd., a Delaware company which, too, is a selling company. Along about 1935 another selling company was formed, known as James Barclay & Co. That is another Delaware company. All of the stock of those three companies was owned by Hiram Walker & Sons, Inc., which is a Michigan corporation.

Mr. BUCK. And that in turn is owned by the Canadian company?

Mr. WALTON. That in turn is owned by the Canadian companies.

Mr. DAVIS. What is the idea of having three sales companies?

Mr. WALTON. The main idea behind that, Judge, was that in Canada we had three selling companies. Each one of those companies sold its own products. The Hiram Walker Sales Co. in Canada sold products that were made at the Hiram Walker plant in Walkerville. Gooderham & Worts, Ltd., Sales Co. in Canada sold products that were made at Toronto, in another distillery; James Barclay & Co., in Canada, sold products that were largely made at Niagara Falls, another distillery in Canada. It was, we thought—or I should say the management of the company thought, I wasn't a part of the management at that time—that it was only logical that that same sales structure should be carried out in the United States, and that policy was followed.

Mr. DAVIS. Was that for the sale of three different types of whisky; in other words, rye and Kentucky bourbon—

Mr. WALTON (interposing). No, sir; we have just one plant in the United States. That is at Peoria. Those companies that I enumerated sell products that are made in that one plant.

Mr. DAVIS. Do you make separate types of whisky in that plant?

Mr. WALTON. Oh, yes; we make several types of whisky in that one plant.

Mr. DAVIS. Are these three United States companies sales companies?

Mr. WALTON. Yes, sir.

Mr. DAVIS. Undertaking to sell products comparable in type, respectively, as those three in Canada?

Mr. WALTON. Well, of course, Hiram Walker, Incorporated, for instance, sells Canadian Club. Gooderham & Worts, Ltd., specializes mainly in the sale of spirit blends. At the start, of course, all three of those companies sold largely the products that were sold by their comparable companies in Canada.

Mr. DAVIS. The point I am getting at is, are you manufacturing at Peoria, Canadian Club whisky?

Mr. WALTON. No, sir.

Mr. DAVIS. In other words, your brands that you are manufacturing and distributing in the United States are different from your Canadian brands?

Mr. WALTON. They are, sir. They are all American type whiskies that we are making in the United States. In Canada we make Canadian whiskies.

## HIRAM WALKER'S FINANCING OPERATIONS

Mr. BUCK. Now, Mr. Walton, that goes to the mechanics of the thing. Now what about your financing. I assume that when you saw repeal approaching here your company was in a fairly good financial condition in Canada.

Mr. WALTON. That is my understanding, Mr. Buck; yes.

Mr. BUCK. You didn't suffer any from prohibition up there?

Mr. WALTON. I am not familiar with the facts and figures, but I know that the company had cash. They had not, I believe, paid any dividends in Canada for some little time on the common stock. They had accumulated cash.

Mr. BUCK. Did you bring over Canadian capital, or did you get capital here?

Mr. WALTON. Both.

Mr. BUCK. Both?

Mr. WALTON. Both.

Mr. BUCK. In the first company you organized here, the Hiram Walker & Sons, Inc., of Peoria, was that financed by Canadian capital?

Mr. WALTON. Entirely.

Mr. BUCK. So you began with Canadian capital here.

Mr. WALTON. That is right.

Mr. BUCK. Since that time what has been your financial——

Mr. WALTON (interposing). Since that time we have sold \$8,000,000 worth of debentures in the United States which are convertible into common stock of the parent company. That is all the United States financing we have done. In other words, to partially finance our Scotch acquisitions in Scotland, we have sold a million and a half pounds of debenture stock in Great Britain.

Here recently we sold 100,000 shares of our preferred stock in Canada.

Mr. BUCK. You have continuously built up your properties here from earnings?

Mr. WALTON. Yes, sir.

Mr. BUCK. And now you do have one of the finest distilleries in the country?

Mr. WALTON. We think so.

Mr. BUCK. You also own Twenty-One Brands?

Mr. WALTON. No, sir.

Mr. BUCK. What is your connection with Twenty-One Brands?

Mr. WALTON. One of our Scotch companies has a contract with Twenty-One Brands whereby they are supplied Ballantine Scotch whisky, which we make, which one of our Scotch companies makes.

Mr. BUCK. Are you in the gin business?

Mr. WALTON. Yes, sir.

Mr. BUCK. What corporation handles that?

Mr. WALTON. In the United States?

Mr. BUCK. Yes.

Mr. WALTON. Hiram Walker & Sons, Inc., makes the gin in this country.

Mr. BUCK. We will have the chart of the board of directors. I will ask you while we are getting that chart: Your company is also a member of the Distilled Spirits Institute?

Mr. WALTON. Yes, sir.

Mr. BUCK. What services does the Institute perform for your contribution?

Mr. WALTON. They supply us with all sorts of statistical data relative to the industry and tax payments and what-not. They also promote good will within the industry designed toward improving the public relations and putting the industry on as high a plane as we can; and then, of course, there are the connections in various legislative matters.

Mr. BUCK. What, in the way of promoting good will, do they do? I mean how do they go about that?

Mr. WALTON. I should qualify that possibly by saying it applies mainly to trade practices. You are probably familiar with the code that Dr. Sturgis has just helped draw up down in the State of Ohio, intended primarily to improve practices within the industry?

Mr. BUCK. He works with the State authorities there?

Mr. WALTON. Yes, sir.

Mr. BUCK. I notice your contributions, according to your report, have been \$176,442.08 for 4 years.

Mr. WALTON. Yes, sir.

Mr. BUCK. And the Institute contacts the various State legislatures and authorities in working out problems in the industry?

Mr. WALTON. They do have men in the field; yes.

Mr. BUCK. And the Federal Government?

Mr. WALTON. That is true.

Mr. BUCK. I wish you would look at the chart [referring to exhibit No. 416], Mr. Walton, and tell me if there are any changes. The directors themselves are taken, I think, from your own report, and their corporate connections are taken from Poor's Manual, the 1938 edition of Poor's Register of Directors of the United States and Canada. Do they look approximately correct?

Mr. WALTON. Yes. Of course, I don't know what boards our directors are on, but that is a correct list of the board of directors.

Mr. BUCK. I offer the chart for reproduction in the record.

(The chart referred to was marked "Exhibit No. 416" and is included in the appendix on p. 2697.)

Mr. BUCK. How many brands do you have in the United States, Mr. Walton, do you know?

Mr. WALTON. All three sales companies, I would say, Mr. Buck, probably have a total of 125 different brands.

That includes whiskies, gins, cordials, bottled cocktails, everything.

Mr. BUCK. I just ask you this for information in the record. Is it possible under existing conditions in the trade to buy brands and hold them in reserve or take them off the market?

Mr. WALTON. I really would have to get a little legal advice, I am afraid, on that. I don't know myself.

Mr. BUCK. Do you have many brands that are not in active use?

Mr. WALTON. No; we have none.

Mr. BUCK. The reason I ask you, some of the other gentlemen preceding you have testified that they own, for instance, two or three hundred brands, and are only using 25 or 30. That would indicate that it was possible to acquire a brand.

Mr. WALTON. I couldn't say myself. I know that our brands are all brands that are being actively used.



Mr. BUCK. According to your report you spend approximately on an average of one million and a half a year in advertising.

Mr. WALTON. That is correct.

Mr. BUCK. That is done principally in the promotion of particular brands?

Mr. WALTON. True.

Mr. BUCK. That is all, Mr. Chairman.

Acting Chairman REECE. If there are no questions, the committee will stand adjourned until 2:30.

Mr. BUCK. Two o'clock.

Acting Chairman REECE. Since we had run over this far we thought that might possibly push some of the committee members to get back, but I would consult your convenience. I had consulted with the chairman in regard to it before making the announcement, but if you feel that is going to limit you too much, Mr. Buck, suppose we say 2:15.

(Whereupon, at 12:33 p. m., the committee recessed until 2:15 of the same day.)

#### AFTERNOON SESSION

The hearing was resumed at 2:30 p. m. upon the expiration of the recess.

Acting Chairman REECE. The committee will come to order, please. Are you ready to proceed, Mr. Buck?

Mr. BUCK. Yes, sir.

Acting Chairman REECE. You may do so.

#### INCREASED ASSETS OF FOUR LARGEST DISTRIBUTORS

Mr. BUCK. Mr. Chairman, in the way of closing this inquiry into the financial evolution of the four corporations, I would like to submit a chart which is a consolidated financial chart for the four corporations, from 1934 to 1938, keeping in mind that repeal occurred at the end of 1933.

The chart is taken from the annual reports of the corporations themselves and made up and arranged by an accountant of the Federal Trade Commission. It shows, of course, total assets beginning with 117 million in 1934, running up to 287 million in 1938. The net sales of the corporations and the progressive increase in those sales year after year in the industry in the United States is of some interest, I think; beginning in 1934, which was a clear year so far as Federal laws are concerned for the sale of whisky, with approximately 90 million net sales, running up to \$282,884,000, and so on, for 1938.

I should like to ask that the chart be filed in the record as an exhibit.

Acting Chairman REECE. It may be included in the printed record.

(The chart was marked "Exhibit No. 417" and is included in the appendix on p. 2697.)

Mr. BUCK. Of course, the net profits shown, and other statistical data, are on the chart, and the committee will take that into consideration in the use of it. That is all of the chart.

Now, Mr. Chairman, before getting further into the matter I have two witnesses, or I will say one owner of a very small distillery,

comparatively speaking, whom I would just like to have state the cost of producing whisky, to get the data from a small distillery as distinguished from the larger distilleries that we have already heard, and I would like to ask Mr. A. Smith Bowman, of Virginia, if he is present, to come up to the stand.

Acting Chairman REECE. Do you solemnly swear, in these proceedings, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BOWMAN. I do.

**TESTIMONY OF A. SMITH BOWMAN, SR., PRESIDENT, A. SMITH BOWMAN DISTILLERY, SUNSET HILLS, FAIRFAX COUNTY, VA.**

Mr. BUCK. Mr. Bowman, how are you? Will you state your name and address?

Mr. BOWMAN. A. Smith Bowman, Sunset Hills, Va.

Mr. BUCK. You have a small distillery in Fairfax County, Va.?

Mr. BOWMAN. Yes, sir.

Mr. BUCK. How long have you been engaged in the making of whisky?

Mr. BOWMAN. Since July 1935.

Mr. BUCK. Since 1935. Now, could you give the committee your cost, I would say, of producing a gallon of whisky at the distillery?

Acting Chairman REECE. Will you ask the witness to sit a little closer to the microphone?

Mr. BOWMAN. What was your question?

**COST TO SMALL DISTILLER OF PRODUCING "QUALITY" WHISKY**

Mr. BUCK. Would you give me your cost of producing whisky at your distillery per gallon at the distillery?

Mr. BOWMAN. Well, of course, that depends altogether upon the kind of whisky. Now I can take my distillery down there—as you know I am just a little distillery, just part and parcel of my farm, and I operate the farm and the distillery together, working the labor back and forth each way, and numerous byproducts, I feed my cattle, so that I can make it very cheap if I want to, but I don't make that kind of whisky. I am making the very highest grade whisky that I know how to make. In fact, my instructions to my distiller are to obey every law.

When it comes to the cost of the whisky, I don't figure on that so much as I do the quality.

Mr. BUCK. I will ask you, do you know?

Mr. BOWMAN. I couldn't tell you, if you ask that question, I couldn't tell you just as to the penny right here, but my office would be able to get you that information. But the kind of whisky that I am making would run at the present prices—are you figuring it as to barrels or from the stills?

Mr. BUCK. Flat from the distillery, as it comes off the stills.

Mr. BOWMAN. That would cost you about 40 cents, 42 cents.

Mr. BUCK. Forty-two cents. What kind of whisky is that?

Mr. BOWMAN. That is heavy-bodied bourbon.

Mr. BUCK. Heavy-bodied bourbon. That is made from 51-percent corn?

Mr. BOWMAN. No; it is more corn. It is about 65-percent corn.

Mr. BUCK. That is all I wish to ask Mr. Bowman.

Mr. DAVIS. What is the capacity of your distillery?

Mr. BOWMAN. Between twelve and thirteen hundred gallons a day.

Mr. DAVIS. Is that 24 hours?

Mr. BOWMAN. No; 8 hours.

Mr. DAVIS. Eight hours; and you, generally speaking, run 8 hours a day?

Mr. BOWMAN. Yes.

Mr. DAVIS. Do you ever run longer than that, Mr. Bowman?

Mr. BOWMAN. No; never have.

Mr. DAVIS. If you ran two or three shifts, would the cost of your whisky be reduced?

Mr. BOWMAN. Oh, yes; I think it would. In fact, of course, as I said in the beginning, the cost of my whisky—if I wanted to make that kind of whisky I could reduce the cost of it very materially, but I am not trying to make cheap whisky.

Mr. DAVIS. You specialize on a high-grade whisky?

Mr. BOWMAN. My position is this: That I just have a small plant, just make one thing, and if I don't make that the best, why I am lost. I have to make it the best, and I am trying to do that; and if I ever find out that I am not making it the best, why I have to change my plans and make it the best or get out of business.

Mr. DAVIS. Where did you say your distillery is located?

Mr. BOWMAN. Right over in Fairfax County, just across the river.

Mr. DAVIS. Thank you. Now, this 42 cents average you speak of for your highest grade whisky; is that the price as it comes before it is barreled?

Mr. BOWMAN. Well, I think his question was just as it comes from the still without the barrels. Of course, if you add the barrels, they are a very large part of the cost.

Mr. PATTERSON. I should like to ask the witness this question: If you add executive and factory burden to that 42 cents, approximately what would be your cost?

Mr. BOWMAN. I didn't understand the question.

Mr. PATTERSON. If you add on to your 42 cents executive burden and factory burden—

Mr. BOWMAN (interposing). Oh, well, that would add largely to it. Of course, I can make whisky cheaper because it is a family proposition. I operate it in connection with my farms. One of the rules out there is if a man is in the distillery and they need him on the farm, he has to go there; and if I need him in the distillery or need him in the dairy, he must go. So my distillery is run in connection with my farm. My farm is my main business; my distillery is just a side issue, just making a small amount of good whisky. That is all I am trying to do. I am not trying to get up into the high ranks.

Mr. PATTERSON. More power to you. What is your average number of employees, the average daily census of employees?

Mr. BOWMAN. Well, I imagine on all of my various enterprises out there it runs about 100.

Mr. PATTERSON. Just on your distillery?

Mr. BOWMAN. Oh, just on the distillery?

Mr. PATTERSON. Yes.

Mr. BOWMAN. Well, the distillery—about 20 in the bottling plant and about 15 to 18 in the other plant, in the distillery proper.

Mr. PATTERSON. That is around 35 or 40 working 5½ days a week, 8 hours?

Mr. BOWMAN. Well, of course, a great many of those, when I don't have any work in the distillery for them, I work them on the farm.

Mr. PATTERSON. Are you satisfied with the financial results of your work to such an extent that you might shift the major burden over to your distillery? By that I mean, are you ready to forget the farm and stick by this distillery if you had to take a choice?

Mr. BOWMAN. No; my farm is my principal business. My farm has always paid me money except for one drought here in 1931 or 1932, when I think I lost a little money on it; my farm was a good investment to me last year; it is a good investment every year. Of course, I built my distillery; I wanted to make money out of it, but I built it largely to give employment to labor on the farm. I have a farm out there on which the labor is pretty steady; they don't change around; they raise a nice crop of children out there every year and have got a fine place to put them, and all this happened to work into my farm.

Mr. PATTERSON. I didn't mean to lead into that, Mr. Chairman, but I would like an invitation to go down there sometime.

Mr. BOWMAN. I'd be delighted to have you any time and show you a good farm, whether I can show you a good distillery or not.

Acting Chairman REECE. The Secretary of Agriculture has advised with you about the successful operation of your farm, hasn't he?

Mr. BOWMAN. No, no.

(Chairman O'Mahoney assumed the Chair.)

Mr. DAVIS. Mr. Bowman, what percentage of the grain that you distill into whisky do you grow on your farm?

Mr. BOWMAN. I am increasing that all the time. I suppose I had about 6 or 7 hundred acres in last year, and I will probably have double that amount in this year and probably twice that next year. I am increasing the number of acres I raise in grain; of course, keeping as much livestock as I do, I have to keep a lot of grass and things like that.

Mr. DAVIS. Still, you buy most of your grain requirements for your distillery, do you not?

Mr. BOWMAN. Well, yes; most of it I buy from the surrounding farmers, a great deal of it; some some other places.

Mr. DAVIS. How many dairy cows have you?

Mr. BOWMAN. We have about 200 head in the dairy.

Mr. DAVIS. Of course, you use a good deal of what you raise on the farm for your dairy.

Mr. BOWMAN. Yes.

Mr. O'CONNELL. Mr. Bowman, where do you sell your whisky?

Mr. BOWMAN. What's that?

Mr. O'CONNELL. Where do you sell your whisky?

Mr. BOWMAN. Oh, I sell it everywhere. I have quite a trade in New York and in Washington, in Maryland, and the State of Virginia, for instance, takes a lot of it, West Virginia, Alabama, wherever you can, of course.

Mr. O'CONNELL. Do you sell it to retail stores?

Mr. BOWMAN. No; we don't sell it to retail stores. We sell it to jobbers.

Mr. BUCK. How much do your sales amount to in a year?

Mr. BOWMAN. Well, we just began selling, we just put it on the market a little over a year ago. I think our sales ran about \$160,000 or \$175,000 this last year, and are increasing very rapidly.

Mr. BUCK. One hundred sixty thousand?

Mr. BOWMAN. I think that is about it.

Mr. BUCK. That is all.

Representative WILLIAMS. Do you run your still constantly in operation all the time?

Mr. BOWMAN. Yes, I have; since I started I have never closed down except once, I think, when I didn't get a warehouse completed quite in time to get my whisky.

Representative WILLIAMS. What capacity still is it?

Mr. BOWMAN. It is about 1,250 to 1,300 gallons in 8 hours, 8-hour shifts.

Representative WILLIAMS. What percentage of the capacity do you operate?

Mr. BOWMAN. I operate full capacity most of the time. I am operating at half capacity and have been for a month or two because I have got a warehouse there that I have not quite completed and I am afraid if I go on full capacity I may not get the warehouse completed in time to finish it.

Representative WILLIAMS. If you operated 24 hours a day your capacity would be three times as great as it is now?

Mr. BOWMAN. Yes.

Representative WILLIAMS. You gave the capacity for 8 hours?

Mr. BOWMAN. Yes.

Representative WILLIAMS. That would necessarily reduce the cost of production, wouldn't it, if that were done?

Mr. BOWMAN. Oh, yes; yes, I think it would, although I expect if a man just wanted cheap whisky, I expect I could make it cheaper than anybody; in fact, when I first started, before I had any brand of my own to hurt, some people wanted 300,000 gallons of cheap whisky, and in the case of that amount of whisky I was in competition with every distiller in the country, I imagine, and I got the order because I could make a better whisky at less money.

Representative WILLIAMS. Do you have any bottled in bond?

Mr. BOWMAN. No; I don't have. I will have in another year.

Mr. DAVIS. How much whisky do you get out of a bushel of grain?

Mr. BOWMAN. That varies, of course. It depends upon the corn and the amount of moisture in the corn and all those things.

Mr. DAVIS. I meant on a yearly average.

Mr. BOWMAN. Well, it will run about 4.90 to 4.92; occasionally it will run up over that, but I can get a much larger yield than I do. But as I say, if I do that, I do it at the expense of my quality, and I can't afford to do that. I have just got one thing and that is quality whisky and if I don't get the quality there I'm gone.

Mr. BUCK. What goes to make quality?

Mr. BOWMAN. Well, a lot of things; the way it is handled, the temperature to which it is cooked, in which the mash is cooked; there is a great deal in the yeast that it is made from, there is a

great deal in the formula that you use. It is just like anything else; it is just like the difference between a Virginia ham that is 3 years old and well cooked and a ham from one of those big companies that is mass production—just the difference that I can't tell you, but it is there. Sometime I will let you see the difference between them.

Mr. BUCK. I want to agree with you as to the ham.

Mr. BOWMAN. That is true of whisky, too, and the public are becoming more and more quality conscious. Just after repeal of prohibition, anything that was legal that had a little alcohol in it, you know, would sell and sell fast, and if I could have got my permit to do business, I expect I would have been tempted to do the same thing, but Virginia didn't repeal until some time after the National Government and I got a late start, and I saw by that time that there was no chance for me unless I made the best that could be made, and that is just what I am trying to do.

Mr. BUCK. All right, sir; thank you.

Mr. BOWMAN. There is one angle of this. As I said a while ago, I am a farmer more than I am a distiller. As I see it, prohibition was repealed for the benefit of the farmer. We all talked it. We talked, if prohibition could be repealed that the farmer would be benefited by it and the farmer voted for the repeal of prohibition just for that purpose. And I have been led to believe—I may be wrong—that the farmer hasn't gotten a just break on the repeal of prohibition. It's been a little baby handed to the Government here 6 years ago and it has been surrounded by big interests that I just didn't think was good for the farmer. I never saw why a town up there in Illinois should be able to make 100,000 gallons of whisky a day and let the farmers around there have the benefit of that grain that other farmers didn't. I may be wrong on that.

Mr. BERGE. How old is your whisky when you sell it?

Mr. BOWMAN. I have whisky 3 years old. I sell some at 2 years old and 3 years old.

Mr. BERGE. You intend to sell bonded whisky later, I suppose, you are holding it.

Mr. BOWMAN. I will if the public wants it, but my idea is that possibly bonded whisky will not be as popular. As you might imagine bonded whisky is a little too strong, it is a little too high proof. If a man came to me and wanted bonded whisky and my whisky was 4 years old, I would sell it to him.

Mr. BERGE. Have you any idea what the difference of cost would be between selling your whisky at 2 years and selling it at 4?

Mr. BOWMAN. I couldn't give it here. If I were at my office I could tell you.

Mr. BERGE. Do you think it would be very much?

Mr. BOWMAN. It is considerable. The loss by evaporation is considerable, the cost of carrying and all of those things. You have a lot of costs toward carrying it. You have to keep a cooper in there all the time to see whether there is a leak in the barrels. If there is a leak a lot of whisky can go out in a mighty short time, you know.

(The witness, Mr. A. Smith Bowman, was excused.)

The CHAIRMAN. Call the next witness, please.

Mr. BUCK. Mr. Keidel.

The CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KEIDEL. I do.

### TESTIMONY OF LOUIS A. KEIDEL, NEW YORK CITY

Mr. BUCK. State your name, business connection, and address, please, sir.

Mr. KEIDEL. Louis A. Keidel, in the banking business at 16 Wall Street.

Mr. BUCK. What bank are you connected with?

Mr. KEIDEL. Bankers Trust Co.

Mr. BUCK. Any other bank?

Mr. KEIDEL. No.

Mr. BUCK. Do you act as bankers' agent for any other banks under any agreements?

Mr. KEIDEL. Yes.

Mr. BUCK. What banks?

Mr. KEIDEL. Seagrams.

Mr. BUCK. I mean are you agent for other banking groups other than Bankers Trust?

Mr. KEIDEL. Yes.

### BANKERS LOAN AGREEMENTS WITH SCHENLEY AND SEAGRAMS

Mr. BUCK. Of course, I don't want to go into your entire financial position, but as to the whisky industry, what groups of bankers do you represent, or have you represented in the past 4 years, dealing with what distilleries, or distillery corporations?

Mr. KEIDEL. Only those banks that are participants in the loans that our bank made to Schenley and to Seagrams.

Mr. BUCK. When were those loans or agreements made, Mr. Keidel?

Mr. KEIDEL. Within the last 4 years, or 5, I don't remember the exact dates.

Mr. BUCK. And what was the length of time which they ran and what was the minimum banking credit allowed by each?

Mr. KEIDEL. One ran 5 years and another ran 2.

Mr. BUCK. Five and two.

Mr. KEIDEL. Let me correct myself. We also lent money to the Glenmore Distillery in Kentucky.

Mr. BUCK. Is that Glenmore?

Mr. KEIDEL. Glenmore; yes.

Mr. BUCK. Let's take the two agreements. What was the maximum amount of credit under each?

Mr. KEIDEL. As I recall it, the Schenley was twenty-seven millions and the Seagrams twenty-eight, divided into short-term and long-term loans of ten millions each.

Mr. BUCK. And you are also a director in Schenley's Distilling Corporation?

Mr. KEIDEL. Yes.

Mr. BUCK. Are you a director in Seagram also?

Mr. KEIDEL. No.

Mr. BUCK. That is all, thank you sir.

(The witness, Mr. Louis A. Keidel, was excused.)

Mr. BUCK. At this point, Mr. Chairman, I don't know whether the committee is ready to rule upon whether or not the bankers' contracts should be admitted to the record. If the committee has reached some conclusion on that, this may be a good place to put it in the record.<sup>1</sup> If not, of course, it can go in at any time.

The CHAIRMAN. The committee itself has had no opportunity to pass upon it. In fact, I have just learned of the offer myself, and Congressman Reece advises me that it was just withheld until the committee would have the opportunity to examine it.

Mr. JAMES E. FRIEL. We will waive the objection to the admission of the bank credits in the record.

Mr. BUCK. You have no objection?

Mr. FRIEL. No objection.

The CHAIRMAN. This is the witness who expressed objection?

Mr. BUCK. This is Mr. Friel, treasurer of Seagram Corporation, who this morning had some hesitancy to consenting to this agreement being admitted to the record. Mr. Friel now withdraws whatever objections he has to it and agrees it may be printed in the record.

The CHAIRMAN. If there is no objection on the part of the witness, and I take it there is none, and if there is no objection on the part of any member of the committee, the exhibit may be admitted to the record for printing.

(The exhibit previously marked "Exhibit No. 411" was admitted to the record and is included in the appendix on p. 2687.)

Mr. GUY MASON. Representing a client to be heard, that does not apply to any witness except the one just referred? I may object, and do object at this time.

The CHAIRMAN. You are objecting to something that hasn't arisen yet.

Mr. MASON. I am trying to find out what the procedure is.

The CHAIRMAN. We will cross that bridge when we come to it.

Mr. BUCK. Is Mr. Gene Tunney here? (Not present.)<sup>2</sup>

Mr. BUCK. Mr. Chairman, at this point I might note for the record that with the time at our disposal I think this concludes the investigation into the corporate evolution of the four big corporations. Now we propose to take up distribution and the price structure of the industry, and I had supposed that Mr. Tunney would be here. In his absence we might call Mr. Wachtel.

The CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WACHTEL. I do.

### TESTIMONY OF W. W. WACHTEL, PRESIDENT, CALVERT DISTILLERS CORPORATION, NEW YORK CITY

Mr. BUCK. State your name and business connections.

Mr. WACHTEL. My name is W. W. Wachtel. I am president of Calvert Distillers Corporation, a subsidiary of Distillers Corporation, Seagrams, Ltd., of Canada.

<sup>1</sup> See testimony on p. 2508, supra.

<sup>2</sup> Mr. Tunney testified the following day; his testimony begins, infra, p. 2508.



Mr. BUCK. It is one of the Seagram group of corporations?

Mr. WACHTEL. Yes.

Mr. BUCK. Are you active in charge of sales of the whisky for Calvert Distillers?

Mr. WACHTEL. Yes, sir.

Mr. BUCK. What is the volume of whisky business in dollars done by Calvert per year?

Mr. WACHTEL. Mr. Buck, we have never published that information of a subsidiary.

Mr. BUCK. Well, you know, I am just a country boy. I don't know a thing about corporations, so if you will excuse me if I pry into something.

Mr. WACHTEL. Well, if it is important I don't think our counsel would have any objection, but without his advice, I should rather not answer that question.

Mr. BUCK. All right, sir, could you give us an approximation on the volume of business in gallons, or cases probably. I think you market in cases.

Mr. WACHTEL. I would say approximating 9,000,000 gallons (whisky and gin).

Mr. BUCK. Nine million per year?

Mr. WACHTEL. Yes.

Mr. BUCK. That is for Calvert, one subsidiary of Seagram's?

Mr. WACHTEL. Right.

Mr. BUCK. And you are actively engaged in the managing of sales and distribution of that subdivision?

Mr. WACHTEL. Yes.

Mr. BUCK. What are the principal brands involved in that?

Mr. WACHTEL. We have a rather unique position in that our brands are rather limited. We have 4 major brands of whisky in 4 buying brackets, all of the same type of whisky. We have 2 gins and we have one or two nondescript straight whisky brands in which we have no interest whatsoever and which we produce and sell in very small quantities, so I would say the answer to your question is probably 5 brands of importance, a total of 8 brands altogether.

Mr. BUCK. You sell the Calvert brands of Seagrams?

Mr. WACHTEL. No; we sell the Calvert brands of Calvert. We are not affiliated with the American company of Seagram. We are a direct subsidiary of the Canadian company.

Mr. BUCK. What's the difference, they are all one litter of pups?

Mr. WACHTEL. I don't know whether they are pups; they may be a litter.

Mr. BUCK. You will excuse the comparison, but they all belong to the same family group.

Mr. WACHTEL. That is right.

#### "MISSIONARY" TYPE OF MARKETING EMPLOYED BY CALVERT

Mr. BUCK. How is the marketing done? How do you market your whisky?

Mr. WACHTEL. We market our whisky through wholesalers throughout the United States, having appointed distributors to handle our products in most of the major markets of the country, and we direct that distribution through a direct sales force of our own of 300 men.

Mr. BUCK. What do you mean by "directing" the distribution?

Mr. WACHTEL. Well, our salesmen support and assist and aid the wholesaler in making placements and in securing orders where it is legally permitted to do so. In some States it is not, one State in particular, and to promote the sale of our products and to educate the wholesaler salesmen in a complete knowledge of our product and how to sell it.

Mr. BUCK. How does he educate them?

Mr. WACHTEL. Well, he attends meetings in many markets whenever they have meetings of their own salesmen. He will at that time expound the virtues of this product, tell our sales policy, what our philosophy of doing business in the whisky business is, and it happens to be just a little different from most of our competitors, and therefore we have to do more of that than the average distiller.

Mr. BUCK. What are those men commonly known as?

Mr. WACHTEL. Missionary men.

Mr. BUCK. They are distinguished from the regular salesmen?

Mr. WACHTEL. The wholesaler has his own staff of salesmen. Probably our group has 2,500 men.

Mr. BUCK. Who sells to the wholesaler?

Mr. WACHTEL. We do.

Mr. BUCK. Whom do you mean by "we"?

Mr. WACHTEL. Salesmen. Usually a contact man for each wholesaler, and usually the district manager in that market takes care of the important accounts and does the selling himself.

Mr. BUCK. Let me try and get the structure. Your main office is in New York?

Mr. WACHTEL. Yes, sir.

Mr. BUCK. Your plant is at Laurel, Md.? One of your plants?

Mr. WACHTEL. It is now called Baltimore.

Mr. BUCK. It is on the road between here and Baltimore?

Mr. WACHTEL. That is right.

Mr. BUCK. You are distributing whisky throughout the United States?

Mr. WACHTEL. Yes, sir.

Mr. BUCK. Wherever it is legally sold?

Mr. WACHTEL. Yes, sir.

Mr. BUCK. Now, you have one man who contacts each wholesaler?

Mr. WACHTEL. No; we have a district manager in a State who will contact at various times all of the wholesalers. If his sales force is large enough, he may assign one man to each wholesaler or one man to two wholesalers to more or less carry out the details of watching stocks and taking orders and doing all the necessary contacts.

Mr. BUCK. Yes. Now, what do these missionary men do? They are not connected with that transaction.

Mr. WACHTEL. Well, they are direct salesmen of ours who promote the sale of our product, in some cases suggest window displays, and teach the wholesaler's salesmen the virtues of our products and why he should sell them in preference to somebody else's.

Mr. BUCK. What I am trying to arrive at is, does your effort cease with the wholesaler?

Mr. WACHTEL. Oh, definitely.

Mr. BUCK. Does your missionary man contact the retailer, too?

Mr. WACHTEL. I should retract that former statement. Oh, yes; he contacts the retailer, he definitely does.

Mr. BUCK. And what is the object in his contacting the retailer?

Mr. WACHTEL. To see that he gets the right shelf display and that the retailer himself may know something about our product, because as I said, we are in the unique position of having a little more difficult problem of selling than has the average distiller.

Mr. BUCK. Why do you have the difficulty?

Mr. WACHTEL. We happen to be exponents and proponents of blends, and we don't believe that straight whiskies are good for any purpose except for blending purposes. We make whiskies only for blending purposes and sell straight whiskies only in small quantities. We make 150 different kinds of ryes and bourbons and malt whiskies and neutral spirits and we believe in and sell only those whiskies to make a sum total known as a spirit blend.

Mr. BUCK. That is one finger on the hand. How can you maintain that attitude as against your whole corporate structure that is selling straight whiskies?

Mr. WACHTEL. There is very little straight whisky sold by our entire corporate structure. The percentage would probably be, a rough guess, 5 percent, if that much.

Mr. BUCK. You say the missionary man goes beyond the wholesaler; they visit the retailer?

Mr. WACHTEL. Particularly the pouring outlets, such as taverns, hotels, bars.

Mr. BUCK. And they do whatever is legitimately possible toward the promotion of your particular brands as against competitive brands.

Mr. WACHTEL. Yes, sir.

Mr. BUCK. They listen to the retailers' problems and try and help them solve them in those ways?

Mr. WACHTEL. Very much, sir. We are proud of that very fact that we try to do more than merely sell them.

Mr. BUCK. Many of the States have what you call fair trade laws.

Mr. WACHTEL. That is right?

Mr. BUCK. I think you are a great advocate of those.

Mr. WACHTEL. I have been for 25 years.

Mr. BUCK. Now, in the transaction between the distiller and the wholesaler what is the agreement and what are the arrangements now in existence? Give us a typical example.

Mr. WACHTEL. On what?

Mr. BUCK. On your whiskies.

Mr. WACHTEL. As between the wholesaler and the distiller?

Mr. BUCK. Yes, sir.

Mr. WACHTEL. We will appoint a wholesaler in the market. In many cases he will sign a franchise.

Mr. BUCK. Let's stop right there and say what does that mean.

Mr. WACHTEL. A franchise is a contract of understanding between us, that he will handle our line and that we will sell him an agency contract, subject to cancelation within 10 days, I think, on either side.

Mr. BUCK. Are there any particular terms? Does he have to take a certain volume?

Mr. WACHTEL. No; we never specify that.

Mr. BUCK. Does your missionary man make side agreements in regard to those things?

Mr. WACHTEL. If he does and we catch him, we would fire him.

Mr. BUCK. All right, sir. Let's go on from there. You have the franchise with the wholesaler.

Mr. WACHTEL. That is right.

Mr. BUCK. From there to the retailer?

Mr. WACHTEL. The retailer buys from the wholesaler and we have no immediate interest in the transaction other than to guide it and see that we get the business instead of the other fellow.

Mr. BUCK. What about the price?

#### MINIMUM PRICES SUGGESTED BY CALVERT IN "OPEN" STATES

Mr. WACHTEL. On price, we suggest prices in those States where it is permissible to do so, and there are some 43 States, deduct 17 monopoly States, leaving 26 open States in which we have the right to suggest—and may I make this word very forcible—"minimum" resale prices. We have many instances to show you where, relatively not many, but many in number, prices are higher than the minimum price at the election of the retailer himself.

Mr. BUCK. Isn't it a natural tendency in the market to have the minimum become the maximum under those circumstances?

Mr. WACHTEL. That is very unfortunately true.

Mr. BUCK. That is true?

Mr. WACHTEL. It is true.

Mr. BUCK. So it is, therefore—

The CHAIRMAN (interposing). You say it is unfortunate.

Mr. WACHTEL. Unfortunately true. I say that for a very good reason, not every retailer has the same cost of doing business and some are entitled to more than others.

Mr. BUCK. Of course, the consumer comes in some places on this, I suppose.

Mr. WACHTEL. There is enough free and open competition that if he doesn't like our prices he has such a variation of prices to select from—and may I inject one thought in connection with this; that there are being offered four-and-a-half-year-old Kentucky bourbon brands in the Boston market for \$1.33 a quart for anybody who wants to buy it, and not three seventy-nine as shown on the chart.

If a man is fool enough to pay three seventy-nine, he does so at his own election.

Mr. BUCK. You don't dispute the figures shown on the chart?

Mr. WACHTEL. Not those particular figures, Mr. Buck. That price is a little lower today.

Mr. BUCK. Let's get back to this. Let's take the transaction from the distiller to the wholesaler under the franchise. You say there are not conditions of that franchise that might interfere with that wholesaler in handling competitive brands?

Mr. WACHTEL. Definitely not.

Mr. BUCK. Other brands at all?

Mr. WACHTEL. Definitely not.

Mr. BUCK. You have no franchises out which require that wholesaler to take a particular amount of whisky from you?

Mr. WACHTEL. None. Well, let's put it this way: We have probably two or three contracts made within recent months where we suggest a quota, a minimum quota, which would justify his being satisfactory to us as a wholesaler, but out of several hundred franchises I doubt if there are more than three. We are not going to give a franchise to a man who isn't going to do a job. We want it understood in the first place if he doesn't do a job we have good reason for canceling the agreement.

Mr. BUCK. Do you think he could do a job for 10 competitors at the same time he is doing a job satisfactorily to you?

Mr. WACHTEL. My own personal experience would indicate to me that the trouble with most wholesalers is that they sell too many lines.

Mr. BUCK. Therefore you favor the restriction of the wholesaler in lines.

Mr. WACHTEL. Oh, I think if he did, he would make more money; and if he wants to make more money that is the way to do it.

Mr. DAVIS. Does this franchise contract between you and the wholesaler provide the cost which he is to charge the retailer for the different brands?

Mr. WACHTEL. No; but where we have fair-trade contracts the contract is established with the retailer. I think in some cases through the wholesaler, in some cases direct with us. We give the wholesaler a printed published price list showing his cost and his mark-up and what he ought to get for it, and then carry it all the way through to the consumer bottle price that we suggest the minimum price should be for the consumer.

Mr. BUCK. Would it be fair to say that in the 43 States that you have referred to, so far as your company is concerned, the method that you have outlined here is the typical method of distribution?

Mr. WACHTEL. The open States; yes, sir. I mean by that, not the monopoly States.

#### DISTRIBUTION OF LIQUOR IN "MONOPOLY" STATES

Mr. BUCK. Let's go over to the monopoly States for a moment. What is your system of distribution there?

Mr. WACHTEL. Of course, in the monopoly States most of them distribute to the stores for us. We ship to a warehouse, some given central point. We have a contact man who calls on the commission and maintains frequent contact with that commission. He watches his inventories.

Mr. BUCK. You mean the State commissions.

Mr. WACHTEL. The State commissions. He watches his inventories and as they go down he watches consumer sales and gives replenishing stock orders.

Mr. BUCK. Who gives it?

Mr. WACHTEL. The State. The State purchasing agent.

Mr. BUCK. Your man doesn't give them?

Mr. WACHTEL. No; he gives them to our man.

Mr. BUCK. That is not typical of monopoly States. Aren't there States that sell direct to the consumer?

Mr. WACHTEL. Yes; they run their own State stores. That is different. They run their own State stores where consumers buy

We frequently are not permitted even to go into that store. We have to have all our contact with the Commission.

Mr. BUCK. Let's take the State of Virginia, as an illustration. How would you market your merchandise there?<sup>1</sup>

Mr. WACHTEL. In the State of Virginia they are probably stricter, as strict as any of the States; as I recall it, I am not certain, we have a contact man who would get an order from the State commission and that is about all he can do; he is through from that point on.

Mr. BUCK. How does the cost of your sales compare as between a sales transaction between your company and the Virginia State commission and the cost of the sale in open States?

Mr. WACHTEL. That would vary greatly.

Mr. BUCK. Where you sell to a wholesaler.

Mr. WACHTEL. That would vary a great deal. If you mentioned a State where our distribution is not good and our costs are high, our costs of doing business would be higher. I could name you two or three States where we happen to be the leading brand of whisky being sold in that market and our costs are much lower.

Mr. BUCK. Now, as I understand it, in the State of Virginia, you are not allowed to have a salesman there at all.

Mr. WACHTEL. I think they have a representative who calls on the Commission but I don't think he is permitted to go to the State stores or do anything in the way of promoting the sales of the product.

Mr. BUCK. In other words, every package of goods that you sell to the State of Virginia requires just one transaction and that is not a solicitation or a selling arrangement; that is simply taking an order.

Mr. WACHTEL. That is right.

Mr. BUCK. As distinguished from going into the open market and trying to sell your whisky to a wholesaler.

Mr. WACHTEL. That is true.

Mr. BUCK. With all its attached expense.

Mr. WACHTEL. That is true.

Mr. BUCK. Could you give us some figure on that as to the percentage of cost of the sale allocated to Virginia as against the open market sale?

Mr. WACHTEL. That is pretty hard to do, Mr. Buck, because it wouldn't be quite fair to take Virginia as an example alone. I would take you over to Pennsylvania where the costs are much lower.

Mr. BUCK. Just a minute. We are talking about Virginia; so as to Virginia it is fair, isn't it?

Mr. WACHTEL. No; because we have this open-States proposition. Our costs are not the same. They may vary as much as a dollar a case between a well-operated State.—

Mr. BUCK (interposing). I am not asking you whether it is fair or not. I am asking you to give me, if you can, the difference in cost between the State of Virginia and the open States.

Mr. WACHTEL. Which open State?

Mr. BUCK. Well, say Florida.

Mr. WACHTEL. I couldn't tell you offhand. I would have to have my records.

Mr. BUCK. What about Maryland?

<sup>1</sup> See testimony on this subject, *infra*, p. 2574 et seq.

Mr. WACHTEL. I have a notion that the Maryland cost might be as low or lower than Virginia, because we happen to do a very excellent business in Maryland.

Mr. BUCK. As a matter of fact, you have no selling obligation in the State of Virginia at all, have you?

Mr. WACHTEL. We have no selling obligation but by the same token we have no selling opportunity.

Mr. BUCK. Therefore, your costs are less, aren't they?

Mr. WACHTEL. Not always. If the business is very small, a great deal depends on a great many factors. I would have to have my figures in front of me to answer the question intelligently.

Mr. BUCK. As a matter of fact, when the State of Virginia wants to place an order they send you an order by mail.

Mr. WACHTEL. That may be right.

Mr. BUCK. That is all there is to the transaction?

Mr. WACHTEL. That is true.

Mr. BUCK. There is nothing else you can do about it, you can't go there and advertise and promote, and so forth.

Mr. WACHTEL. That is right. I think they permit newspaper advertising of a certain type that shows only the bottle and price, as I recall.

Mr. BUCK. Which is a very small item.

Mr. WACHTEL. That is right, depending on how big your business is.

Mr. BUCK. But there is a distinct difference in the cost of merchandising the two customers.

Mr. WACHTEL. I won't say yes to that, Mr. Buck, because it depends on the States. I have some States where it is less and some States where it is more.

Mr. BUCK. Do you maintain any missionary men in Virginia?

Mr. WACHTEL. One.

Mr. BUCK. One man.

Mr. WACHTEL. Yes.

Mr. BUCK. What is his business?

Mr. WACHTEL. He calls on the State.

Mr. BUCK. On whom? There isn't but one man to call on.

Mr. WACHTEL. That is right, but he calls on him with some degree of frequency to find out complaints, where orders are to go.

Mr. BUCK. How often does he call on this one man?

Mr. WACHTEL. I don't know the details of how much contact he makes. I assume he spends a great deal of time there.

Mr. BUCK. In marking your goods do you take into consideration that factor at all, do you give the same price to Virginia that you give to Florida?

Mr. WACHTEL. We have one price all over the United States, f. o. b. distillery, to which we add the full freight, which would be just as true of shipping from Maryland to California as it would be to ship into Virginia which is nearby.

Mr. DAVIS. What is the relative selling price to the consumer of your products in the few States which do not have the so-called fair-trade laws, compared to the States in which they have those laws?

Mr. WACHTEL. I think they are about the same, depending on the State cost, the tax in the particular State. Taxes vary a great deal, as you know, in liquor taxes of the State.

Mr. DAVIS. Aside from the variation in tax there is no variation in price?

Mr. WACHTEL. Markets vary in various States. They are not all alike.

Mr. DAVIS. Well, the average in the five States and the District of Columbia, which do not have the fair-trade laws, so-called, and the other States in which they have them.

Mr. WACHTEL. I am talking from recollection, now. Let's take the District of Columbia versus Maryland. In one case we have fair trade, in the other we have not. I think the mark-up is identical.

Mr. DAVIS. Although the cost of selling in Maryland is cheaper than in the District of Columbia?

Mr. WACHTEL. If that is true it is only because we have a greater volume there. There is no reason why it should be true, volume for volume, dollar for dollar.

Mr. BERGE. I didn't understand. Is there much difference in the price between Maryland and the District of Columbia?

Mr. WACHTEL. I don't think—well, the difference, if any, would be the difference in the State tax.

#### EFFECT OF FAIR-TRADE LAWS ON WHISKY PRICES

Mr. BERGE. What good do the fair-trade laws do the distiller, then?

Mr. WACHTEL. The fair-trade law was not necessarily made for the distiller; it was to keep the retailer from going broke, and if he went broke he wouldn't be able to pay the wholesaler and the wholesaler wouldn't pay the distiller.

Mr. BERGE. If the price is the same where you have the laws and don't, what good is it to anybody?

Mr. WACHTEL. The difference is that prices are probably better maintained in Maryland by far than in the District<sup>1</sup> where price cutting is notably rampant. Most of the retailers of this community would do everything in their power to get some kind of protection for their profits if they could.

Mr. BERGE. The advantage, then, is that the price cutter is barred from handling your product—

Mr. WACHTEL (interposing). We don't bar any price cutter from handling our product.

Mr. BERGE. I am trying to find out what advantage you get, then, from the fair-trade laws.

Mr. WACHTEL. Well, if you have 43 States, or 26 closed States where the fair-trade law is functioning, you certainly wouldn't abandon that opportunity merely for the 3 States where it doesn't.

Mr. BERGE. I don't see what the opportunity is if there is no difference in the price or in the persons who handle the product. I can see that if the fair-trade laws effectively banished the price cutter from the standpoint of the retailer, there might be some advantage, but you say that even where there are fair-trade laws you will do business with the price cutters. I suppose that the advantage of the fair-trade law is that you could contract—

Mr. WACHTEL (interposing). I am sorry, I am sorry, we will not do business with the price cutter in those States where we have fair-trade contracts.

<sup>1</sup> Washington, District of Columbia.



Mr. BUCK. As a matter of fact, you not only won't do business with him, but you will go into the courts——

Mr. WACHTEL (interposing). We will take him down as fast as we can and get an injunction.

Mr. BUCK. You do that and have done it.

Mr. WACHTEL. Yes, sir.

Mr. BUCK. And that gives you a legal status in the court.

Mr. WACHTEL. Yes, sir.

Mr. BUCK. To maintain the price fixed by you through your contract to the retailer.

Mr. WACHTEL. The minimum suggested resale price. Of course, if prices went down, went to pot, the advertised brands would obviously have a great big advantage over many of their competitors.

The CHAIRMAN. I assume you favor such laws.

Mr. WACHTEL. I certainly do. After 33 years of business experience and knowing the problems of the retailer and the wholesaler I can say this to you, Senator: There are 4,000,000 people engaged in retail distribution. They distribute \$33,000,000,000 of your products of the farm and the factory and the field. If you are interested in maintaining the American system, which is the profit system, you are going to have to do something to try to make it possible for those 4,000,000 people to be happy and content with a margin of profit and a fair return on their efforts. They put in longer hours and get less return than anybody I know of, including the farmer.

The CHAIRMAN. I assume then that you would feel that this price maintenance policy should apply to every line of production.

Mr. WACHTEL. Oh, definitely. My personal views, not my company's views.

The CHAIRMAN. Do you, for example, believe that we should have a policy by which we could maintain the level of prices for farm products?

Mr. WACHTEL. I don't think I am enough of an economist to answer that. I would like to answer that but I am not enough of an economist. During the period of 1932-33 you had the lowest level of prices in many years. If low prices are the solution of economic ills, why didn't we have a period of prosperity during that period? Prices couldn't have gone lower. So low prices are not the answer. America has always been prosperous on a high price basis. When the fellow in the shipyards was wearing \$18 silk shirts with big yellow stripes—do you remember, in 1921—that is when America was prosperous.

The CHAIRMAN. There are a number of people coming in to this committee, and coming to Congress, and contending that we should adopt a general policy, some suggestion by way of monetary control, to raise prices, upon the theory that that will restore prosperity. Now in asking these questions of you, I am not undertaking to express my point of view, or the point of view of the committee. I am just trying to develop the advantages that may be obtained from the testimony of an apparently very intelligent, very experienced witness.

Mr. WACHTEL. Thank you, sir.

The CHAIRMAN. I say to you, since you believe that in the liquor business there ought to be a policy of maintaining the prices, because in your opinion that helps to maintain prosperity for all who are engaged in this business, do you believe that we should also have a policy to maintain prices for every other commodity?

MR. WACHTEL. Let's put it this way. The laborer is worthy of his hire, and a sale without a profit is a sale without honor, and an indictment of the American people. Nobody has any right to be asked to distribute your products or to manufacture or to sell without an adequate return unless you don't believe in the profit system.

THE CHAIRMAN. Just to make it clear, there is pending now before the United States Senate Committee on Agriculture a bill designed to establish a Government control system which will guarantee to the farmer the cost of production. That policy is criticized by many persons who contend that it would be very bad for our economy, and doubtless you have noticed, as many Members of Congress have noticed, that there are a number of persons in industry who believe that it is perfectly fair and proper and desirable for industry to control production in order to maintain price, but that the controlled production of agricultural commodities for the same purpose is an outrage. Now, what is your opinion about that?

MR. WACHTEL. You are getting me off the deep end. If you would like to spend this evening with me I would be very glad to give you in private my views. If you insist on an answer I shall be very glad to answer. In my own personal philosophy I can see no harm whatsoever in maintaining prices at a time when we are starving in the midst of plenty. And to add to the great surpluses that America already has just seems to me futile, infantile, and asinine.

THE CHAIRMAN. And you think that can be done by the concentration of control over the distribution of those things which are produced in the American economy?

MR. WACHTEL. That is a little different problem. How to do it is not as easy to solve. What we should do is perfectly obvious, I think, but how to do it with the least disturbance to the economics of the country is not the easiest task and we have already in our experiments found out that that is true.

THE CHAIRMAN. And you haven't in your own mind reached any conclusion?

MR. WACHTEL. If I had I would run for office. [Laughter.]

I'm sorry, I didn't mean to be facetious.

THE CHAIRMAN. Of course, it would depend upon the conclusion which you had reached whether or not you would be successful.

MR. WACHTEL. That is correct.

MR. DAVIS. Do you think that it is necessary to maintain price fixing from the manufacturer to the consumer in order to maintain content among the members in the liquor industry?

MR. WACHTEL. Minimum resale price suggestion; yes, sir; definitely.

MR. DAVIS. Well, isn't the price suggested all the way down the line?

MR. WACHTEL. That is right.

MR. DAVIS. And you think that is necessary in order to maintain content among them?

MR. WACHTEL. What are you going to do when you have a group of unintelligent retailers and you have to do something to protect them from themselves?

MR. DAVIS. I asked you a fair question.

MR. WACHTEL. I believe that.

MR. DAVIS. All of you in the liquor industry are dependent upon the consumer, are you not?

Mr. WACHTEL. Yes, sir.

Mr. DAVIS. Has it ever come to your notice that the American consumers are considerably discontented about the price of liquor?

Mr. WACHTEL. I never heard of it.

Mr. DAVIS. You haven't?

Mr. WACHTEL. No, sir.

Mr. DAVIS. You have a good deal to learn.

Mr. WACHTEL. I have no doubt, sir.

Mr. DAVIS. Do I understand you want the committee to understand you that competition has no part in American industry or the American system?

Mr. WACHTEL. Oh, we have free and open competition in our industry.

Mr. DAVIS. Oh, that is just for business. The only competition between you in the liquor industry is for business and not on price. Isn't that correct?

Mr. WACHTEL. No; because the price range is so great on any age or proof of whisky that you want, I care not which you pick. I will show you a variation in price that is tremendous. Take your bottled in bonds, from \$1.33 to \$3.79. That is a terrible span for the same type of whisky.

Mr. DAVIS. Of course, you have your widely advertised brands on which you spend millions of dollars to advertise certain brands, which induces their sales, but there is no competition in effect between comparable nationally advertised brands. Is that not true—of the same age?

Mr. WACHTEL. On the contrary, that is very untrue. Take in our own case, we who are proponents for blends, and just have no truck with straight whiskies at all; Calvert Special, which happens to be the largest selling brand of whisky in the world (pardon the advertising), let's say sells in New York City at \$1.20, if I am not mistaken—\$1.20 a pint. Similar types of blends, some of them, if you please, with back labels, that on the face of it the layman doesn't understand as yet—the values of whisky and what they mean—sell for as low as 90 cents. Some advertised blends, well known, on which there are large amounts of money spent, sell at \$1.

Mr. DAVIS. You mean a dollar a pint?

Mr. WACHTEL. \$1 a pint, 20 cents under, 16 $\frac{2}{3}$  percent under, our \$1.20 price. We have no monopoly on the business to force a man to buy our product as against the other for the same type of whisky.

Mr. DAVIS. What age whisky do you sell for \$1 a pint?

Mr. WACHTEL. We just don't believe in ages, and that is what takes so long to explain.

Mr. DAVIS. It is blends?

Mr. WACHTEL. If you are talking about Calvert Special, the average age is 5 years.

Mr. DAVIS. And the greater part of it is spirits.

Mr. WACHTEL. You may call it spirits; we call it Calvert neutral spirits, because we make our spirits in a very different way.

Mr. DAVIS. Just explain to the committee what spirits are.

Mr. WACHTEL. I thank you for that opportunity, because the subject has been touched upon and quite apparently has not been made clear. You make whisky, and if you should distill it at about 189 proof, under the American law you must call it neutral grain spirits.

Nobody as yet has convinced me that that law is a fair one or a sound one, and it does not exist in Scotland or Canada, who made whiskies as long as we have and some of them longer. If that whisky is distilled at 189 proof, then abracadabra you are permitted to call it other whisky, but if it gets to 190, then it immediately becomes neutral spirits. Your Scotch whiskies are made from what is known or referred to yesterday as British grain spirits; over there they call them patent grain whiskies. To my knowledge, they are all distilled at 192.5 proof, and as under the American law, if the Scotchman were compelled to put his labels on the back of his bottle, as he does here, he would have to show as much as 60 to 80 percent neutral spirits. The difference between the Scotchman and the Canadian and ourselves is that they age neutral spirits in the wood just the same as you do whisky.

We think the time is coming when America will have to do likewise if they want to compete with the kind and type of whiskies of foreign countries.

Mr. DAVIS. You have told the proof of spirits you manufacture, which you use largely in your blend. When these blends get to the consumer they are never over 100 proof, are they?

Mr. WACHTEL. They are never over 90. We don't believe in a high-proof whisky.

Mr. DAVIS. Over even 90? In other words, about half of the proof in the spirits and the proof is reduced by water, isn't it?

Mr. WACHTEL. Distilled water; yes, sir.

Mr. DAVIS. Distilled water?

Mr. WACHTEL. One hundred proof bottled-in-bond whisky is 50 percent alcohol and 50 percent water, ostensibly.

Mr. DAVIS. I am not arguing with you about whether it is good or bad, but I am simply wanting to develop the fact that the proof is reduced by watering it about half.

Mr. WACHTEL. No; that isn't true. That is true in the reduction of any whisky, whether it is bottled-in-bond or any whisky. If you wanted to make it 90 proof you could reduce——

Mr. BUCK (interposing). You can't bottle in bond——

Mr. WACHTEL (interposing). Any reduction of whisky from high proof to low proof is done that way.

Mr. BUCK. With the addition of water.

Mr. DAVIS. Water doesn't cost as much as liquor, does it?

#### WHISKY PRICES DEPENDENT ON QUALITY

Mr. WACHTEL. Well, judge, may I bring up this point. There has been a lot of discussion here as to the consumer price and the prime cost of whisky. I can submit facts to prove that they are relatively not much different than almost any other commodity, many of which are staples. In the cracker business, an 8-cent cracker—and I was in the cracker business for 27 years and I am not a whisky man, I have only been in it 2½ years<sup>1</sup>—might sell to the consumer at 25 cents a pound, yet the cracker companies have not made an abnormal net profit on their business. Comparisons were made here on this

<sup>1</sup> Mr. Wachtel was formerly vice president of Loose-Wiles Biscuit Co.

\$3.79 bonded and the \$1.92 2-year-old whisky. The law of supply and demand is the important thing there. Ten-year-old whisky is scarce and you don't take the prime cost as the cost to manufacture; you take its replacement cost. You couldn't replace that whisky at any price. You would have to start now and wait for 10 years before you would have it.

Mr. BUCK. This was 4-year-old.

Mr. WACHTEL. I am talking about any whisky 10 years old.

Mr. BUCK. You were talking about the chart. That is a 4-year-old whisky.

Mr. WACHTEL. The other thing that was overlooked in the conference yesterday is the fact that when you lay out your cash for State and Federal taxes that is a cash outlay of \$10 per case that you don't get back for 60 days, and there aren't many businessmen willing to hazard that kind of investment in cash—not in ingredients—so the span between the cost and consumer price is not out of line. The best evidence of it is that the profits of the whisky business have not been as great as in many other seasoned industries.

The CHAIRMAN. I understood you to testify, in response to Judge Davis' question, that there is a very wide variety in the same type of whisky. You mentioned especially the 4-year-old bottled in bond whisky, running from \$1.33 to \$3.79. Is that correct?

Mr. WACHTEL. That is right.

The CHAIRMAN. That is the same type of whisky?

Mr. WACHTEL. It is 4 years old, it is 100 proof.

The CHAIRMAN. What accounts for the difference in price between the \$1.33 and the \$3.79?

Mr. WACHTEL. Ability to make it. It is inconceivable that four men can sit down and blend the same type of whisky, even with the same ingredients and the same formula.

The CHAIRMAN. When you say of the same type, you don't mean of the same type.

Mr. WACHTEL. It is bottled in bond. There might be a justifiable span in that price between the \$1.33 and the \$3.79.

One other thing ought to be brought out, that while it may seem true that the man with the bottled in bond may have a wider margin, let's understand that that represents 6 or 7 percent of the total consumption of the country. That is a specialty. He wouldn't be able to sell the 2-year-old at the low margin of profit if he didn't make the extra margin on the specialty business sold to people who can afford to pay and who are not the masses.

Mr. DAVIS. What is the price range to the consumer of your Calvert blend?

Mr. WACHTEL. Between the wholesale price and the consumer price?

Mr. DAVIS. No; the price to the consumer in the States where you fix the price.

Mr. WACHTEL. It depends on the tax. It is \$1.20 a pint in New York City. The State tax in New Jersey is the same; it is \$1.20 there. The State tax in Massachusetts is less; it is about \$1.12 there. The State tax in Colorado is the highest in the Union; it is \$1.29 there. We have a \$4.80 tax on a case of 3 gallons of whisky, a pretty stiff tax.

Mr. DAVIS. Will you furnish for the record your different price ranges?<sup>1</sup>

Mr. WACHTEL. Gladly.

Mr. DAVIS. Giving ages and qualities.

Mr. WACHTEL. I can't do it on the difference of age. We improve our whiskies four or five times a year. There is a constant flux in a blended whisky. It does not remain the same.

Mr. DAVIS. Give the prices as of a certain date within the past year.

The CHAIRMAN. I take it your whisky is constantly improving.

Mr. WACHTEL. As ages permit.

The CHAIRMAN. You spoke of three elements that go into the differentiation, skill, brand, good will. Is that correct?

Mr. WACHTEL. Marketing strategy—oh, very important. My competitors have taught me that.

The CHAIRMAN. Probably the most important of all.

Mr. WACHTEL. Without doubt. Of course, you must have something in the bottle. They wouldn't repeat, you know. You can't fool them more than once or twice.

The CHAIRMAN. Which of the four has the greatest weight?

Mr. WACHTEL. Which of the four has the greatest weight? I would say marketing strategy, because that is true in any business. I think that is fundamentally true of any business. Even a good product will not sell if it is improperly marketed. Some times a bad product sells, from my experience, when it is well marketed.

The CHAIRMAN. Skill in salesmanship.

Mr. WACHTEL. Inspiration, enthusiasm, leadership.

The CHAIRMAN. That is the primary factor in accounting for this range between \$1.33 and \$3.79?

Mr. WACHTEL. Yes.

Mr. PATTERSON. I would like to ask Mr. Wachtel with reference to the volume of whisky business in dollars. I don't ask him to put that on the record now because he answered in the beginning, but I do ask him to consult his colleagues and, if agreeable, submit it for the record.<sup>1</sup>

Mr. WACHTEL. I shall be very glad to.

Mr. PATTERSON. I understood you to testify that your capacity was 9,000,000 gallons a year.

Mr. WACHTEL. No; our sales (approximately).

Mr. PATTERSON. What is your capacity?

Mr. WACHTEL. Well, that gets into production and also another problem, and that is, that we try to produce most of our whiskies at one plant, but when necessary we may produce at two other plants that do not continuously make a product.

Mr. PATTERSON. You sell no straight whiskies?

Mr. WACHTEL. Just in very small quantities, where a wholesaler asks us to help him out with a straight bourbon or a straight rye. Our main sales are four blends in four price groups.

Mr. PATTERSON. You said the difference between your prime cost and the consumer's cost was relative to the differences of other major commodities, did you not?

<sup>1</sup>Counsel for Mr. Wachtel, in a letter dated June 5, 1939, supplied the total sales figures on various brands for the fiscal years ending July 31, 1937 and July 31, 1938. The document was marked "Exhibit No. 678" and is included in the appendix on p. 2747.

Mr. WACHTEL. Some; a good many.

Mr. PATTERSON. I just wanted—

Mr. WACHTEL (interposing). Definitely true in the food business, certain types of food business in particular.

Mr. PATTERSON. That is all.

Mr. WACHTEL. May I call attention to one thing, Mr. Buck, which may throw some enlightenment? You had a chart that showed a declining consumption of whisky based on tax withdrawals. The inference there, I think, is erroneous. Actually, in 1937, as near as we can find out, consumption increased. In 1938, the first half showed a slight decline, and I think the second half of 1938 showed a slight gain. The reason the figures do not reflect the true fact is this: There has been a growing tendency toward blends. We figure the blend business represents today 40 percent of the total domestic whisky business of the country.

Mr. BUCK. That was amply explained yesterday when the charts were introduced.

Mr. WACHTEL. I thought I had some figures you would like to add into your record.

Mr. BUCK. What are your figures based on?

Mr. WACHTEL. Mostly on the reports from the States themselves as to the stamps. That is pretty accurate.

In short, the figure shows 99,000,000 gallons—99,336,000 gallons—instead of 70,000,000, aside from the fact that those tax gallons are 100 proof and 80 percent of your business is 90 proof.

Mr. BUCK. You don't question the accuracy of the chart?

Mr. WACHTEL. No; the chart is correct, definitely correct.

#### PRICE MAINTENANCE TO SUPPORT RETAILERS

Mr. BERGE. May I just ask one question? You said a few moments ago that your resale price was the same in different areas, and the only difference to the consumer would be the tax. You mean by that that on any one of your products, the price you fix for resale is the same all over the country?

Mr. WACHTEL. That is not true; no, sir.

Mr. BERGE. You vary it according to territory?

Mr. WACHTEL. Mark-ups vary. It would have to.

Mr. BERGE. In order to meet competition?

Mr. WACHTEL. Not that alone. Take Los Angeles, for example. You have something like 8,000 retail licensees, probably 4 times more than they have any right to have. It is very difficult for a retailer there to make a living. Competition for him is too great. In New York City we have 1,200 package stores. Competition is less; there is a better opportunity to make money.

In Massachusetts the number of licensees is much too many; competition is very keen among retailers.

Mr. BERGE. In other words, you take into account, or try to take into account, in fixing the price, what you deem to be the retailer's welfare. If you think he can exist on one price, you fix it there, and if you think that he requires a higher price, you fix it there.

Mr. WACHTEL. That is right.

Mr. BERGE. If you think a smaller margin of profit is sufficient for him, you would lower the price?

Mr. WACHTEL. Yes, sir.

Mr. BERGE. You said a few moments ago that there was competition in the liquor industry. You mean price competition, I take it, because you mentioned the various prices of different brands. But how could there be competition if every company in the business followed your resale price-maintenance policy? I take it that there is competition now because many of them don't follow that policy. If they all followed the policy I can conceive that there might be competition as between distillers to fix the price. That is, you might desire that all of your retailers should undersell the product of a competing distiller; but how could there be any competition between retailers if all of them were operating under retail price maintenance contracts? Would that be possible?

Mr. WACHTEL. Yes; because the distiller markets his product at different prices. They are not all in the same price category. All 2-year-old whiskies don't have the same price.

Mr. BERGE. That is a different product?

Mr. WACHTEL. Oh, no. We look upon the consumer as a belly potential, you see.

Mr. BERGE. There are different classifications, of course. What I mean to say is this, that if you have a brand that you have fixed the price on at, say, \$1.50, and your retailer has to sell it at that, and every other retailer has to sell at that, there is no opportunity for competition between them on the same product. Of course, they can sell a cheaper product at a cheaper price, but there isn't any opportunity for them to sacrifice some of their profit for the sake of greater sales.

Mr. WACHTEL. We don't want them to.

Mr. BERGE. You don't want them to. But they might want to?

The CHAIRMAN. Did I correctly understand your testimony in response to Mr. Berge that you do not maintain a uniform price throughout the country for the same grade of whisky?

Mr. WACHTEL. I didn't quite follow that. How do you mean? The consumer bottle price.

The CHAIRMAN. No; your price to your wholesaler.

Mr. WACHTEL. Our price to our wholesaler is definitely an f. o. b. distillery price. He is talking about the distiller's price.

Mr. BERGE. I am confused now. I thought you said that for a given product you might have a fixed resale price of one figure in New York and a lower figure in Los Angeles.

Mr. WACHTEL. That is right; the consumer bottle price. That is the span between the wholesaler's cost and the retailer's cost and the consumer's cost. In those States where we are permitted to operate under fair trade, the mark-up in one market might be 33 percent, in another market it might be 38, in another market it might be 40.

Mr. BERGE. You determine what it will be?

Mr. WACHTEL. Definitely, where we have the legal right to do so.

The CHAIRMAN. And who gets it?

Mr. WACHTEL. The retailer gets it. We have nothing to do with it. We only get a fixed price for every case of whisky we sell at the distillery net, and that is the same for every shipment.

The CHAIRMAN. So you make the different mark-ups in the States, not for your own benefit but for the benefit of the retailer with whom you have no direct dealings.



Mr. WACHTEL. Thank you, sir, that is exactly right, and I can't understand why there is so much misinformation on that subject, because a candidate for office in the State of Maryland broadcast over the radio last fall——

Mr. BUCK (interposing). Let's not go into politics.

Mr. WACHTEL. It isn't politics, it is a question of misunderstanding of who benefits from fair trade. The retailer benefits, not the distiller. You pull the plug out tomorrow on Calvert and our sales would double, but we don't think it would be good over the long pull because the retailer would go broke.

Mr. BERGE. But whether the retailer benefits depends upon the wisdom of your policy in particular cases. He may or may not benefit, depending on whether your judgment is good. The point I am trying to establish, and I believe your testimony establishes it, is that it is your decision rather than his that determines, and that you do exercise the power to discriminate between territories. I withdraw the word "discriminate," but I will say to make a difference between territories as to what the retailer may charge for the same product, and that in doing that you try to weigh these various factors affecting his welfare, that the question of what his welfare is, is decided by you and not by him.

Mr. WACHTEL. Well, if trial and error proves we are wrong, we change.

Mr. PATTERSON. Mr. Chairman, was the question of export trade mentioned? If not, I would like to ask, Do you have an export trade?

Mr. WACHTEL. Very, very little; almost nothing.

Mr. BUCK. Mr. Patterson, I might say I have tried to divide this hearing into parts, and bring them on in consecutive order. This particular phase is relating to distribution and its system and symptoms. Tomorrow morning we take up exports and the system of distribution of exports.

Mr. PATTERSON. But will you, with this witness?

Mr. BUCK. Not this witness, but someone from his company who represents the export side of his business.

Mr. PATTERSON. I am content.

Mr. BUCK. Mr. Wachtel, I was interested in your statement brought out in the questioning of the committee about the investment of money in this business by the distiller for taxes. You say that was a considerable item and involved great risks that many people wouldn't take, or didn't desire to take. As a matter of fact, your mark-up is based on taxes.

Mr. WACHTEL. If we didn't do that, we would go broke.

Mr. BUCK. Exactly; so rather than having the tax as a liability, the tax is a very great asset in your business, it keeps you from going broke.

Mr. WACHTEL. Oh, no; on the contrary.

Mr. BUCK. What do you mean, you would go broke without the tax mark-up?

Mr. WACHTEL. You can't simply base your price on the basis of paying out \$10 in taxes and getting \$10 back and trying to sell 42 cents worth of whisky for 10 percent mark-up.

Mr. BUCK. When you were in the cracker business you didn't have that mark-up.

Mr. WACHTEL. But sometimes we would put 10 cents worth of crackers in a dollar tin, and we had to get the mark-up on the dollar tin container or go broke.

Mr. BUCK. Here you have a tax of \$2 a quart, Federal tax. When you mark-up your whiskies 10, 15, 20 percent, whatever it might be, you not only get interest on the money you have invested in taxes, but you take a very considerable profit.

Mr. WACHTEL. We are entitled to do it, as a matter of fact.

Mr. BUCK. I am not talking about what you are entitled to do. I say you do as a matter of practice.

Mr. WACHTEL. Definitely. May I point out in raw materials, you buy on credit. When you put grain into whisky you don't necessarily pay in cash in advance as you do in taxes.

Mr. BUCK. And your conclusions are that the industry would go broke if it had to mark its goods on cost of production, as other industries do.

Mr. WACHTEL. I think the history proves it.

Mr. BUCK. Do you know of any parallel?

Mr. WACHTEL. I know a great many people in the industry are not prosperous and are not able to make expenses and are probably going to have to fold up.

Mr. BUCK. As a matter of fact, the largest item upon which you take a mark-up in this business is tax, isn't it?

Mr. WACHTEL. That is true.

Mr. BUCK. Tax exceeds the cost of product.

Mr. WACHTEL. That is right.

Mr. BUCK. And it is your life-blood. You not only get the tax and 6-percent interest in return, but you get your tax plus 20 or 30 or 40 percent, whatever the mark-up is.

Mr. WACHTEL. I think that would be approved by any economist; it is good business.

Mr. BUCK. I am not talking about whether it is good or bad business. I am trying to get the functioning of the system.

Mr. WACHTEL. That is true.

Mr. O'CONNELL. May I ask a question? In fair-trade States I understood you to say sometime ago that in your contracts or in your arrangement with retailers you suggest what the resale price will be. That isn't exactly the word, is it?

Mr. WACHTEL. In those cases the wholesaler sometimes has the contract with the retailer and sometimes we have it ourselves direct; and we inform the wholesaler what the suggested resale price is or the fixed resale price.

Mr. O'CONNELL. But the effect, insofar as the retailer goes, is that he is required to sell according to the resale price fixed by your company?

Mr. WACHTEL. Definitely.

Mr. O'CONNELL. And I understood you also to say that the theory of that is that where you have, as you put it, an intelligent group of retailers, they need the protection which your company, and apparently only your company, is in a position to give them; is that right?

Mr. WACHTEL. I hope no retailer will hold it against me, but it is true.

Mr. O'CONNELL. I take it that is the position of your company, that in the absence of this paternalistic interest your company takes over the retail field, the unintelligent retailers, at least, would go broke.

Mr. WACHTEL. And he thanks us for it.

Mr. O'CONNELL. The unintelligent thanks you for it?

Mr. WACHTEL. Yes, sir.

Mr. O'CONNELL. And the intelligent ones, too?

Mr. WACHTEL. The intelligent sometimes like to have the extreme privilege of cutting prices without anybody else having the same privilege.

Mr. O'CONNELL. The intelligent like to cut prices?

Mr. WACHTEL. Providing nobody else could do it, just that fellow himself.

Mr. O'CONNELL. That is rather difficult to follow.

Mr. WACHTEL. I am afraid it is.

Mr. BERGE. Do you think that conditions could be frozen so that the unintelligent could be kept in business regardless of his efficiency?

Mr. WACHTEL. He renders a service, he is a fellow neighbor. I don't know whether you drink. Let's say I want him as a convenience and if he were not in business, it might be inconvenient for me to get my whisky conveniently if I wanted it.

Mr. BERGE. I don't see that that answers the question.

Mr. WACHTEL. It keeps a lot of people employed.

Mr. BERGE. He might be a fine fellow and the neighborhood might want to keep him in business, but I suppose if enough people felt that way about it, they would keep him in business by patronizing him. I don't see that your answer was really responsive to the question.

Mr. WACHTEL. They do it as a matter of convenience. It is convenient for them to do so; they are not very much concerned whether he is intelligent or not. He is there when we need him.

Mr. BERGE. I understand your answer to be that that system should keep the unintelligent and inefficient in business.

Mr. WACHTEL. It would be an awful holocaust if we did it in all business.

Mr. BERGE. The competitive system is on the theory that the most efficient man can get the better break in profit, and so forth. However, that is neither here nor there.

Mr. BUCK. Mr. Wachtel, in the merchandising of whisky, what would you say were the two most important factors?

Mr. WACHTEL. In the merchandising of whisky? I think probably one of the most important factors is the education of your sales force and the wholesaler's sales force.

Mr. BUCK. You wouldn't say that brands and advertising were?

Mr. WACHTEL. Not in our case.

Mr. BUCK. You think you could sell as much whisky without advertising?

Mr. WACHTEL. Oh, no. You asked me the most important. Advertising is very important, so are brand names. In our case we have made our brand names.

Mr. BUCK. As a matter of fact, it requires considerable resources to develop consumer demand for a particular brand of whisky.

Mr. WACHTEL. Not always. There are many sectional brands that have done very well in their sectional markets.

Mr. BUCK. I am talking about national distribution.

Mr. WACHTEL. National distribution, definitely.

Mr. BUCK. In other words, it is impossible to get into the national market on any considerable scale without being able to carry on a very expensive advertising program.

Mr. WACHTEL. That is true.

Mr. BUCK. And the technic is first to select a brand that might catch, so to speak, in advertising, and then spend a tremendous amount of money on the popularizing of that brand name.

Mr. WACHTEL. It could be done in other ways. It could be done by taking one State at a time and letting your profits carry you along until you were able to cover all States; that is a long-drawn-out process.

Mr. BUCK. But in order to get into the national market for distribution you must create that consumer demand, and that requires great capital.

Mr. WACHTEL. Yes.

Mr. BUCK. That is the way you have developed?

Mr. WACHTEL. Calvert has been developed sectionally rather than nationally over a period of 4½ years.

Mr. BUCK. It now has a national distribution?

Mr. WACHTEL. Yes, sir.

Mr. BUCK. A small company with no capital to spare in that respect would find it difficult in competing on a national scale, don't you think?

Mr. WACHTEL. He would find it difficult to compete on a national scale provided he tried to do it all at one time.

Mr. BUCK. That is all.

Mr. WACHTEL. Thank you. Thank you, Senator.

Mr. BUCK. Mr. Tunney.

#### TESTIMONY OF GENE TUNNEY, CHAIRMAN OF THE BOARD, AMERICAN DISTILLING CO., NEW YORK, N. Y.

The CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TUNNEY. I do.

Mr. BUCK. Mr. Tunney, will you state your name and business connection, please, sir?

Mr. TUNNEY. Gene Tunney, chairman of the board of the American Distilling Co.

Mr. BUCK. The American Distilling Co. is engaged in the manufacture and distribution of whisky in the United States?

Mr. TUNNEY. Yes, sir.

Mr. BUCK. I believe you have no foreign subsidiaries.

Mr. TUNNEY. None.

Mr. BUCK. How long have you been engaged in the business?

Mr. TUNNEY. Actually as chairman of the board 15 months. I have been a member of the board of the American Distilling Co. and American Commercial Alcohol since 1935.

Mr. BUCK. As a member of the company you are acquainted with the problems in respect to the distribution and sales of the product?

Mr. TUNNEY. A good many of the problems; yes, sir.

Mr. BUCK. I would like to ask you this question: Do you find any difficulty in obtaining wholesalers to handle your whisky in the United States?

Mr. TUNNEY. Well, yes and no. Some places they have got a complete line and other places they are willing to take a new line on. On the whole, I think it is about 50-50, as I have described it.

#### CORPORATE ORGANIZATION OF AMERICAN DISTILLING CO.

The CHAIRMAN. Mr. Buck, before you proceed, may I ask Mr. Tunney, in what State is your company chartered?

Mr. TUNNEY. The American Commercial Alcohol owns wholly the American Distilling Co. The American Distilling is a Delaware company.

The CHAIRMAN. American Commercial Alcohol was chartered by what State?

Mr. TUNNEY. Delaware, I believe—Maryland.

The CHAIRMAN. And the American Distilling Co.?

Mr. TUNNEY. The distilling company the same.

The CHAIRMAN. When were they chartered, respectively?

Mr. TUNNEY. The American Commercial Alcohol was chartered in 1928, the American Distilling Co. in 1933.

The CHAIRMAN. Are there any other subsidiaries?

Mr. TUNNEY. The American Distilling is a subsidiary of the American Commercial Alcohol.

The CHAIRMAN. Yes; but are there any others?

Mr. TUNNEY. Not of the American Distilling. There are others of the American Commercial Alcohol.

The CHAIRMAN. What are they?

Mr. TUNNEY. Noxon and Kessler Chemical Co. Noxon is a wax and floor polish that the American Commercial Alcohol makes.

The CHAIRMAN. You don't sell the floor polish except through that company?

Mr. TUNNEY. They tell me occasionally they get mixed up. [Laughter.]

Mr. BUCK. That may be a hang-over from prohibition.

Mr. DAVIS. Mr. Tunney, did your Commercial Alcohol Co. start from scratch or did it buy out other alcohol companies?

Mr. TUNNEY. It was organized in 1928 by a group who bought out three companies, three commercial alcohol companies. One was the S. M. Mayer Co. in Gretna, La. Another was the David Berg, of Philadelphia, Pa., owned wholly by Philip Publica. The other was the American Distilling Co. in Pekin, Ill., and subsequently we took on in 1929, I think (it is now the American Distilling Co. of California), what was, I think, the Walter Buck Commercial Alcohol Co. He is, anyway, the president of it.

Mr. DAVIS. They were all engaged in the manufacture of commercial alcohol?

Mr. TUNNEY. Commercial alcohol.

Mr. DAVIS. You didn't buy out the interests which Mr. Porter described as his company having sold?

Mr. TUNNEY. No.

The CHAIRMAN. Proceed, Mr. Buck.

Mr. BUCK. Mr. Tunney, do you experience some difficulty in marketing your brands generally in respect to wholesalers where they may be already handling brands of other companies that are highly advertised, and so forth, and as a consequence they refuse to take on your brands for distribution?

Mr. TUNNEY. Sometimes that would be to the disadvantage of a wholesaler. If he has a complete line he might not want to take on—in most cases they never do want to take on—another line of articles that are not nationally advertised, but this business is terrifically competitive, and we find that on the whole we get wholesalers in most every State. Of course, we can't in some cases get the cream of the State; the best fellows usually, or sometimes, are already tied up with other houses.

#### EXTENSION OF CREDIT TO WHOLESALERS

Mr. BUCK. What are factors that enter into that situation? Is credit sometimes a factor?

Mr. TUNNEY. I would say, on the whole—this is merely my opinion, now; I don't say this with any authority—that is about 100 percent, in my opinion, the factor.

Mr. BUCK. In other words, if the distiller is large enough to, in effect, subsidize the wholesaler as to stocks, and so forth, and carry him over a long period of time, that is one status. If you are not sufficiently financed to grant these tremendous and long credits, that is another and different factor that might exist.

Mr. TUNNEY. Yes, sir.

Mr. BUCK. That does have an effect on your ability to obtain general and free use of wholesaling facilities?

Mr. TUNNEY. Well, that is true; but, on the other hand, I imagine if our company were in a position to extend the credit that is necessary, we would probably do it. I don't know. I am not certain, but I think that is the trouble—rather, it isn't the trouble altogether; the condition is prevalent in all industry in America or any part of the world. Fellows that are big and can afford to get the best go out and do it. The fellows that are not so big and can't afford to get the best, they have to do the best they can. And I think it is just our hard luck—I mean, our company—that we are not in a position to extend these vast credits. Maybe we'd do it, and maybe we wouldn't; but we have—oh, I don't know; we haven't any definite opinion one way or the other on that, only that we know that to have capital naturally means that you get a good deal many more distributors. If you can throw three or four or five hundred thousand dollars' worth of merchandise into a fellow's store and he doesn't put anything down on it but pays as he can, well, you are going to get rid of a good deal more merchandise than if you can only give a prospective customer five or ten thousand dollars credit.

Mr. BUCK. That is a point. Then it is a question of bigness and ability to finance through and through the distribution system on a national scale.

Mr. TUNNEY. Well, there are, however, small companies that are doing extremely well, well managed, and they don't extend great

credits. I am thinking now of certain Kentucky distillers that have always—well, they have just normal credits and they still do pretty well, but on the whole the big companies have an edge naturally.

Mr. BUCK. Yes; and they use it.

Mr. TUNNEY. Well, I don't know. That is a matter of opinion.

Mr. BUCK. You find that the experiences that you have related you have found to exist in the industry?

Mr. TUNNEY. Yes, on the whole; yes.

Mr. DAVIS. Mr. Tunney, does your company have any nationally advertised brands?

Mr. TUNNEY. No; not any nationally advertised brands. We did do a little national advertising a couple of years ago on Old American Rye and Bourbon, but there is no other nationally advertised brand.

Mr. DAVIS. Where is your whisky distillery?

Mr. TUNNEY. In Pekin, Ill. We distill gin in Pennsylvania and we distill whisky in Sausalito, Calif., and we distill rum down in Gretna, La.

Mr. DAVIS. Do you do any bottled-in-bond business yet?

Mr. TUNNEY. No; we have a small—we are just getting in the supplies of 4-year old. You see, we were largely in the bulk-goods business for the last, oh, for the first 3 years, and we found that we'd have to start to get into the case goods business if we wanted to stay in business, so that we started to get our own brands and pushed them a little bit.

Mr. DAVIS. Do you sell much of your product to rectifiers?

Mr. TUNNEY. Oh, yes; a good deal.

Mr. DAVIS. You sell that in the barrel, do you?

Mr. TUNNEY. In the barrel; yes, sir.

Mr. BERGE. Does your company take advantage of State fair-trade laws?

Mr. TUNNEY. Yes; our company insists wherever there is a fair trade law our company insists on the people obeying the law, any of our distributors.

Mr. BERGE. The laws are only permissive though, aren't they? That is, you don't have to take advantage of them.

Mr. TUNNEY. No; you don't have to take advantage, but it ruins the reputation of an article if it gets into constant war over price.

Mr. DAVIS. Do you have a good deal of pressure brought to bear on you to observe the fair-trade laws?

Mr. TUNNEY. A good deal of pressure?

Mr. DAVIS. Yes; from the trade.

Mr. TUNNEY. No, sir; no pressure whatever.

Mr. BERGE. But you feel that where there is a fair-trade law your product would suffer if you didn't maintain the price the way the other fellows did?

Mr. TUNNEY. It would suffer only in the public consciousness, because if in my opinion—I am just speaking now as to how it would affect me—if I knew an article like our Meadwood and I liked it and I saw that it was selling for \$1.79 or \$1.89 today, and then I went in and bought a bottle, and then tomorrow I passed the same store and saw a sign up where I could get it for \$1.59, well, I would feel that I had been cheated out of 20 cents or 30 cents and would remember that, and I don't think it does anybody's product any good to get in price wars, in the public mind.

Mr. BUCK. That is all.

Acting Chairman REECE. After you have set up agents in the different States, have you observed any tendency on the part of large corporations, so to speak, to bring pressure to bear to prevent those agents from continuing to handle the products of the small company?

Mr. TUNNEY. Well, they do. Yes; you hear all kinds of rumors but unfortunately in this industry there are more rumors around than we can shake a stick at. If you pay attention to rumors, you are making a mistake. Only once in my experience has such an occasion or such a situation of that kind been brought to my attention, and so I can only speak of—well, two experiences.

Acting Chairman REECE. It is not prevalent?

Mr. TUNNEY. No; not as far as we are concerned.

Acting Chairman REECE. Are there any other questions? The committee have greatly appreciated your coming before them, Mr. Tunney.

Mr. TUNNEY. Thank you.

(Mr. Tunney was excused from the stand.)

Acting Chairman REECE. Mr. Ballinger, what are your plans? Is this a good quitting place? It is something after 4 o'clock.

Mr. BUCK. Mr. Chairman, I have Colonel Bullington here from the State of Virginia commission. It will only take about 10 or 15 minutes and I promised him he could get away tonight. If you would sit just that much longer I could accommodate the colonel.

Acting Chairman REECE. It seems to be agreeable to the committee, and we will be glad to.

Do you solemnly swear in these proceedings to tell the truth, the whole truth, and nothing but the truth, so help you God?

Colonel BULLINGTON. I do.

#### TESTIMONY OF COL. R. McC. BULLINGTON, MEMBER, VIRGINIA ALCOHOL BEVERAGE CONTROL BOARD, RICHMOND, VA.

Mr. BUCK. Colonel, will you state your name and business, please, sir?

Colonel BULLINGTON. R. McC. Bullington, Richmond, Va., a member of the A. B. C. Board.

Mr. BUCK. Are you a member and officer of an association of State liquor commission officials?

Colonel BULLINGTON. Yes, sir; I am the president of the National Conference of State Liquor Administrators.

Mr. BUCK. That is, the State liquor administrators have an organization which they have set up, and you are its president?

Colonel BULLINGTON. Yes, sir.

Mr. BUCK. What States are members?

Colonel BULLINGTON. All monopoly States are members except, at the moment, I think, Pennsylvania, the State of Washington, Vermont, and North Carolina. North Carolina is not operating strictly a monopoly State. They have a monopoly set-up, but the counties operate the set-up.

Mr. BUCK. But all other monopoly States are members of your association?

Colonel BULLINGTON. Yes, sir; and I think the others are coming in.



AIMS AND PURPOSES OF THE NATIONAL CONFERENCE OF STATE LIQUOR  
ADMINISTRATORS

Mr. BUCK. Colonel, I wanted to ask you about a matter that occurred some time ago in respect to the price of liquor sold to the State-monopoly States as distinguished from the price of the same liquor sold in the open market. I believe your organization took some part in that matter, and will you relate it to the committee?

Colonel BULLINGTON. Well, I reckon the best thing, the proper thing, to do, probably, would be to give you the aims and objects—it takes just a minute—the aims and purposes, of this organization of ours, the State liquor administrators. Its aims and purposes are: "The aims and purposes of our association"——

Acting Chairman REECE (interposing). Will you please state the name of your organization?

Colonel BULLINGTON. The National Conference of State Liquor Administrators. [Reading:]

It shall be the purpose of this association, by thorough cooperation, one member State with another, to keep on as high a plane as possible all transactions of the several State liquor-control boards and commissions and to require and insist upon frank, open, and ethical practices upon the part of all vendors of alcoholic beverages and cooperate with all State and Federal agencies charged with the control, sale, or taxation on alcoholic beverages.

This organization was formed not only with the idea of seeing that we received, as member States, a fair price and as low a price, everything being considered, as the open-license States, but to compare notes on the question of control and the handling of the liquor problems in our respective States. This organization was formed in January 1938 at Des Moines. We have had several meetings since then; we have had several meetings with a committee from the Distilled Spirits Institute and other people in the distilling industry, bringing to their attention the fact that we knew, or felt positive, that in some of the open States, due to competitive conditions—for it has been a highly competitive business—through deals of one kind or another that had been given through competitive reasons, and probably any one of us might have got into the fight in the same way, there were prices being made or considerations being given to the wholesalers in those States that were not being given to the monopoly States.

To sell goods in the average monopoly State should cost and does cost, in a properly conducted State, less money than it does in an average open-license State, volume for volume. Of course some monopoly States operate differently from, for instance, Virginia, or from, we will say, New Hampshire. They have licenses where whisky is sold by licensee. In Virginia the whisky is only sold through our 90 stores and about 15 or 20 drug stores, or 30 or 40 drug stores who sell it on prescription only.

We held numerous conferences with these gentlemen.

Mr. BUCK. Whom do you mean by "these gentlemen?"

Colonel BULLINGTON. A committee from the Distilled Spirits Institute and other people in the distilling industry.

Mr. BUCK. In other words, as I understand it, the Association of States appointed a committee.

Colonel BULLINGTON. Yes, sir.

Mr. BUCK. And the industry appointed a committee.

Colonel BULLINGTON. Appointed a committee.

Mr. BUCK. Composed of representatives of the members of the industry who were selling whisky in both States.

Colonel BULLINGTON. In both the open-license States and the monopoly States.

Mr. BUCK. These two committees had a meeting?

PRICE CONCESSIONS TO DISTRIBUTORS IN "OPEN" STATES SOUGHT BY  
"MONOPOLY" STATES

Colonel BULLINGTON. We had numerous meetings.

Mr. BUCK. About what.

Colonel BULLINGTON. About the question of deals being given in open-license States which the monopoly States were not benefiting by, by certain price concessions that were being given from time to time.

Mr. BUCK. As I understand it, frankly it is this, that you found in certain instances that they were selling to open States in the competitive market at a less price than they were selling to the State monopolies.

Colonel BULLINGTON. We felt that that was correct.

Mr. BUCK. Did your investigation confirm your feelings?

Colonel BULLINGTON. It confirmed that certainly so far as special deals and concessions were concerned.

Mr. BUCK. As I understand it, these committees met on several occasions and discussed this situation. What was the result, and when was it arrived at?

Colonel BULLINGTON. We met on numerous occasions. I think the members of the industry felt that the tactics or the procedure that were being used by certain of the men in the industry, or by probably most of the people in the industry—by certain of them anyhow—were not sound. They felt that there was some justice to our contention. I didn't like to sit idly by, for instance, in Virginia, and feel that I might be paying 50 cents a case and not getting the advantage of some proposition that was being offered in Maryland. I felt that we were paying our bills on the dotted line; we were not asking for any terms or concessions, we didn't ask for any better price than the other fellow was getting, but we asked for only the same price and the same consideration that they were getting in open-license States.

I must say that the committee felt that our contention was a just one. Up to that time a number of the States had certain warranties that they placed on their orders as to the price to be charged and so forth, and there was considerable discussion as to that, and we are still in process; I don't know when we will ever get it exactly as on a warranty we feel is fair to the industry and ourselves.

Mr. BUCK. Is this a fair characterization of it: Notwithstanding the small cost involved in selling to the State stores, such as yours, State-operated systems, you found the industry developing in the open market where the costs were higher at a less price than they were giving you.

Colonel BULLINGTON. That wasn't so in every instance. That would happen to some brands where there was a fight on brands. That was not a general practice by all of the people all of the time. It was the practice by certain of them at certain times, when there was a brand fight on or a certain particular price range fight. All we asked was, "If it is necessary that these price concessions be given in open license States, we want that same concession given to us," and they have conceded that, I think, in the main.

Mr. BUCK. Not only have they conceded it as to future prices, but what happened as to sales that had been consummated up to that time? Did they rebate the difference?

Colonel BULLINGTON. This thing started so shortly after, I don't know when the thing broke. It broke out just prior to the meeting in 1938, and I don't think it was retroactive, because you couldn't get at what were the actual facts in the case.

Mr. BUCK. Has the State of Virginia received any adjustment on accounts made prior to this agreement?

Colonel BULLINGTON. We have not; but we have received an adjustment on every special deal that I know of that had been made by any distillers since.

Mr. BUCK. Since that time?

Colonel BULLINGTON. Yes, sir.

Mr. BUCK. That is all.

Acting Chairman REECE. How do you determine the price, the retail price of your products?

Colonel BULLINGTON. We feel that we should buy our goods at the lowest price anybody pays for it. We market our goods and price our goods as we see fit. We don't allow the distiller to dictate to us what our resale price would be. As a rule, in most of the monopoly States the retail price is lower than it is in the open States. For instance, we set our own mark-up; we make a profit of  $33\frac{1}{3}$  percent on selling price, which we think is a fair, reasonable price, which is a lower price than the goods are sold for as a rule in open license States.

Acting Chairman REECE. And the profit which you undertake to make is uniform on all of your brands?

Colonel BULLINGTON. We don't deviate a particle. We have a breaking point, and if it goes over that one-tenth of 1 cent it goes to a higher or lower bracket, we get the same profit on every item, alcoholic beverage, except on wine. Our profit on wine is less, because we are trying to promote the sale and drinking of wine.

Acting Chairman REECE. This is probably beside the point, but I would be interested myself to know what your observations are of the relative sales in the monopoly States and in open States, that is, on a per capita basis.

Colonel BULLINGTON. I couldn't give you that information. I probably could get it for you.

Acting Chairman REECE. No, I wouldn't want you to do that.

Mr. DAVIS. In connection with ascertaining what you think would be a fair price to your State, did you or the association of men representing different States make any survey or investigation of the prices in the States where they have the price-maintenance laws?

Colonel BULLINGTON. No, sir. I do not think that there is any regular formula as to profits that the monopoly States charge. I think it is a question of merchandising and what a man feels you should get out of an operation of that kind. In other words, in our State we figure that to do a retail business profitably and handle it in a manner in which it should be handled we want a profit of 33 $\frac{1}{3}$  percent on the selling price, which is a mark-up of 50 percent. Some of the States have a high mark-up, some have a low mark-up. This association of which I happen to be president doesn't dictate any question of terms or prices or anything of that character.

Mr. DAVIS. To you.

Colonel BULLINGTON. We meet and consult, and that is about all. Each one is a sovereign State, each State handles its own business as it sees fit.

Mr. DAVIS. You made no investigation whatever of the prices to the consumer in any of the other States.

Colonel BULLINGTON. No; but we know that our prices, as a rule, are lower. In Virginia, for instance, it is lower than in some of the other States, than in the open license States. We don't follow any ups and downs in the market. We have no cut prices; we don't have any cut sales. It is a straight price, and they pay that or leave it. There is no effort made to promote sales.

Mr. DAVIS. You don't do any advertising?

Colonel BULLINGTON. No, sir. Speaking for my own State, we would be very happy if our sales were a million or two million dollars less if we knew that business wasn't going into illegitimate channels. We are not interested in promoting or furthering the sale of whiskies; we are simply interested in supplying an actual demand that is there.

Mr. DAVIS. You don't handle beer?

Colonel BULLINGTON. No; we handle beer in our State but not through our commission. We issue the licenses and police it, but that goes into the tax department.

Mr. BUCK. Judge Davis, on the point you have asked, we have a chart, and I would just as soon set it up now and put it in the record so long as you have raised the question.

This chart represents what we believe to be the consumer's cost on a given-type brand of whisky in a monopoly State as against the consumer's cost in what is known as an open State, the same product, per quart. The figures are based on a blended whisky, 20 percent, 1 $\frac{1}{4}$  years old, straight whisky; 5-percent 5-year-old straight whisky; 75-percent grain neutral spirits, ethyl alcohol; and a quart is 90 proof. It gives the rectifier's cost and profit. You see, in this case you will notice the terms are "Rectifier's cost" and "Profit," whereas in the other charts it was "Distiller's costs" and "Profits." The reason for that is that the maker of blended whisky is known as a rectifier, whereas the other is a straight whisky.

(The chart referred to was marked "Exhibit No. 418" and is included in the appendix on p. 2698.)

Mr. BUCK. The tax difference is due to the fact that in the open State there is a State tax, whereas in the monopoly State that tax is charged into the profit if it is a tax, of course. The total figure is \$2.05 a quart as distinguished from \$1.55 a quart. I just put that in because you raised that point.

Mr. DAVIS. Is that based upon the price quotation made the—

Mr. BUCK (interposing). That is based on current market; I would say, a few days old.

Acting Chairman REECE. I notice in the license State column, Mr. Buck, State and Federal taxes are shown to be 88 cents.

Mr. BUCK. That is right.

Acting Chairman REECE. In the monopoly State column, the Federal tax would be only 63 cents. That means then, that the State tax is the difference.

Mr. BUCK. No.

Acting Chairman REECE. Twenty-five cents?

Mr. BUCK. Under the monopoly State system, where the State buys the liquor and distributes it, of course, there is no tax levied; the monopoly is operated to take the place of the tax, and that item is charged in. The State derives its profit.

Acting Chairman REECE. Yes; I understand that, but in the license State column, as a part of the cost of manufacture and distribution there is an item of State tax of 25 cents a quart. That is my question.

Mr. BUCK. That is right. That is based on the highest State tax that I know of—that is a dollar-a-gallon tax.

Acting Chairman REECE. So to get on an equal basis, whatever the profit which might be charged by the commission in a monopoly State, there should be a reduction of 25 cents, which was comparable to the average State tax.

Mr. BUCK. That is true as to profit. Of course, that wouldn't affect the consumer's price.

Representative WILLIAMS. Do I understand that you deal only in blended whiskies?

Mr. BUCK. Oh, no. This chart is only blends.

Representative WILLIAMS. You deal in straight whisky and bottled-in-bond?

Colonel BULLINGTON. We carry everything in the alcoholic-beverage line.

Representative WILLIAMS. How do you get your prices?

Colonel BULLINGTON. When we ask for prices?

Representative WILLIAMS. Yes.

#### METHOD OF PURCHASE BY VIRGINIA ALCOHOL BEVERAGE CONTROL BOARD

Colonel BULLINGTON. We have a form that we submit to the distiller. We ask for a lot of information as to his financial rating, his representative, the number of the distillery, a lot of information of that kind. Then we ask for prices. We send in this thing; he fills in his prices and gives us his base price, f. o. b. distillery, and then he gives us the freight rates in cars and less than cars and then carried out to its logical conclusion to the delivered price at Richmond.

Representative WILLIAMS. Do you ask for prices from different companies?

Colonel BULLINGTON. We are purchasing probably from 150 companies, so naturally we have prices from all of them.

Representative WILLIAMS. How has the price varied, say, on blended whisky?

Colonel BULLINGTON. Well, the price has been gradually going down right straight along.

Representative WILLIAMS. I mean on different brands. What is the range of price of the different brands that you pay?

Colonel BULLINGTON. I can give you my sales price, which will give you some idea as to the cost price.

Representative WILLIAMS. That would be your cost price with 33⅓ percent added.

Colonel BULLINGTON. This is our sales price. Our sales price, for instance, oh, we will say, runs on rye whiskies, bottled in bond, from \$2.40 today to \$2.75 in quarts. There will be material changes in those prices on the issuance of our next list. We issue a list next month, and they will be lower by 10, 15, or 20 cents.

Representative WILLIAMS. What is the range on bourbons?

Colonel BULLINGTON. On bourbons they run from \$2.60 to \$3.10, and there would be materially lower prices on those goods probably within the next 30 or 60 days.

Representative WILLIAMS. Approximately how many brands would that cover?

Colonel BULLINGTON. In bourbons it would cover two, three, four, five brands of bourbons; one, two, three, four, five brands of bottled-in-bond rye.

Representative WILLIAMS. And you get those different brands from different companies?

Colonel BULLINGTON. Yes, sir.

Mr. BUCK. Mr. Bullington, would you file that price list with the committee, so that it might be printed in the record?

Colonel BULLINGTON. If you desire it; yes, sir.

Mr. BUCK. This is for the State of Virginia.

Mr. DAVIS. That is the current price list?

Colonel BULLINGTON. The prices effective February 1, which will be in effect until we issue another list, which will probably be May 1.

(The Retail Price List No. 50 for Commonwealth of Virginia was marked "Exhibit No. 419" and is included in the appendix on p. 2698.)

Acting Chairman REECE. As I understood, you made your prices so as to allow for a 33⅓-percent profit.

Colonel BULLINGTON. Profit; that is, profit on selling.

Acting Chairman REECE. That is, so to speak, a gross profit.

Colonel BULLINGTON. Yes, sir.

Acting Chairman REECE. Out of that should be deducted the cost of administrative, rentals, and so forth.

Colonel BULLINGTON. Yes, sir; that is the gross profit. Am I a witness for Virginia or for the conference? I am mixing things up here for the organization. I didn't know which was which. As far as Virginia is concerned, that is the profit, and out of that go all expenses; for instance, we have an inspection and enforcement division of over 100 men. We find that with all of the activity, with all the stores, with the low prices at which we are selling whisky, bootlegging is still going on in our State in a big way. I think last year we closed up about 1,400 stills.

Acting Chairman REECE. Do you have the information or are you able to estimate what part of the 33⅓ percent profit would be consumed by the cost of distribution?

Colonel BULLINGTON. I think I can tell you what the profit is; yes, sir. Our profit last year for the fiscal year ending June 30, 1938, was \$4,940,000, speaking for Virginia.

Mr. DAVIS. That was your net profit?

Colonel BULLINGTON. That was our net profit.

Acting Chairman REECE. What was the volume of the business?

Colonel BULLINGTON. The volume of our business was \$17,000,000 in net sales. We made on our operation about 27 cents on the dollar sales.

Mr. DAVIS. In other words, the cost of distribution averaged 8 cents on the sales.

Colonel BULLINGTON. No. Our expense of doing business, yes.

Mr. DAVIS. No; it would be 6 cents. In other words, you said there was a gross profit of 33 and your net profit was 27.

Colonel BULLINGTON. Our total administrative and general expenses; for instance, it cost us \$0.26 to operate the stores; it cost us less than 1½ percent for general office expenses; it cost us about the same money for inspection and enforcement expenses; for garage expenses it cost us 3.162; the direct selling expense was 6.217, which made a total expense of less than 9½ percent on the total volume of business.

Mr. BERGE. You said a few minutes ago that you bought from about 150 different companies.

Colonel BULLINGTON. I can tell you exactly.

Mr. BERGE. Approximately, I don't care.

Colonel BULLINGTON. We probably purchased from less than 100 companies during the fiscal year ending 1938.

Mr. BERGE. You get price quotations from each company?

Colonel BULLINGTON. Yes, sir.

Mr. BERGE. Is there ever any bargaining over prices or do you accept the quotations they send to you the first time?

Colonel BULLINGTON. They may quote, but we buy what we think will sell on our market, and what we think is salable and at what we think is a fair and right price.

Mr. BERGE. Do you know whether you are getting quotations that are comparable to the same as they quote dealers in States that are on the license system?

Colonel BULLINGTON. We have no way of definitely proving that, but we are doing this, we are checking on that very closely and we know that the policy of some of the concerns is to quote the same base price at distillery—that is the information that comes to us.

Mr. BERGE. You think then that now you are getting whisky at the same prices that they are quoting?

Colonel BULLINGTON. We hope so.

Mr. BERGE. Have you ever had any reason to believe that they were charging you more than dealers in States in the license system?

Colonel BULLINGTON. That is one of the reasons for the formation of this organization of States so that we could get that information. We are setting up today an exchange of price information so we will have that data, we hope.

Mr. BERGE. Prior to the formation of that association, at any time since Virginia has permitted the sale of liquor, have there been any differences with the distillers over prices of liquors?

Colonel BULLINGTON. If we are not satisfied with the price we don't pay it; we are in this position, that we don't have to buy a brand we don't think there is a demand for. We don't allow any promotion work of any kind.

Mr. BERGE. Have there been any major controversies with the distillers?

Colonel BULLINGTON. We have had no major controversy, but questions that have come up that have generally been adjusted satisfactorily.

Mr. BERGE. Have there ever been any instances of rebating on sales that were previously made at a figure which the State thought was too high, or thought subsequently was too high?

Colonel BULLINGTON. I think we have had probably one or two cases of that kind, but it has been adjusted and, as a rule, an explanation has been made and we thought it was satisfactory. If it wasn't we would discontinue doing business with that concern.

Mr. BERGE. Those were instances where the State thought it was overcharged and insisted on a rebate?

Colonel BULLINGTON. Insisted on an adjustment if we felt we were entitled to it. In some instances we were not entitled to it and we didn't get it, but in the main our relations with the distillers have been, I think, fairly fair and equitable.

Mr. DAVIS. Do you happen to have on hand a price list of approximately a year ago, or say 2 years ago?

Colonel BULLINGTON. Yes, sir.

Mr. DAVIS. Would you furnish those to the committee, or to Mr. Buck to file with the committee?

Colonel BULLINGTON. I would be very glad to send them to you.

Mr. DAVIS. I think when they are received they should go in. In other words, the price lists of a year ago and 2 years ago, or approximately that.<sup>1</sup>

Colonel BULLINGTON. Of course, there has been a change in brands in that time. I might say there has been a change of course in the formula of some of those whiskies, in proof and quality.

Acting Chairman REECE. How much whisky do you sell, measured in gallons in a year? That is last year, for instance?

Colonel BULLINGTON. We sold the year, not the fiscal year but the calendar year 1938, a total of 2,614,000 gallons, which was purchased in brands which amounted to 272 brands, that is calling a quart as a brand and a pint as a brand, as an item.

Acting Chairman REECE. Are there any other questions?

Mr. BUCK. Colonel, I am still not entirely clear on what happened as a result of these conferences with the distillers. You say that you found that they were giving one price to the open States and another price to your State, for instance. That was the cause of the organization of the committee.

Colonel BULLINGTON. That is one of the causes of the organization of our association, the question of prices, and the question of exchange of information between the different States on laws and this thing and that thing.

<sup>1</sup> The committee subsequently received price lists effective as of July 16, 1937, Feb. 1, 1938, and Oct. 1, 1938. They were submitted at a later hearing, marked "Exhibit No. 433" and are included in the appendix on p. 2721.



Mr. BUCK. Let's stay strictly on prices here for a moment.

Colonel BULLINGTON. All right, sir.

Mr. BUCK. After your respective committees were organized, that is, the committee on behalf of the distilleries and the committee on behalf of the States, did you reach some agreement as a result of those committee actions?

Colonel BULLINGTON. Yes, sir. We started out on the premise, first, that we were opposed to deals.

Mr. BUCK. Yes; but what did this agreement provide, in short and simple language? Did it provide that the distillers should rebate to the States any amount of the moneys found to be the difference between the open State price which they had sold at and the price which they had sold to the State at?

Colonel BULLINGTON. I will have to answer that just this way, Mr. Buck. It seems that all of a sudden there was an epidemic of deals and special prices that broke out among the distillers, and from that time, we insisted that, if there were going to be special deals and special prices made in open-license States, that we wanted the same concession in our States, no more, no less.

Mr. BUCK. I understand that.

Colonel BULLINGTON. And from that time, from the time that this thing had been in effect, I think the last meeting we really got down to cases was at White Sulphur Springs. We had numerous conferences. I believe those men of the distilling industry were in earnest; we were in earnest, we tried to clean up the condition that they didn't like. I think things have been working on an even keel since.

Mr. BUCK. Thank you very much for that, but that still doesn't clear up the point I am after. Let's assume that all that happened. As a result of those agreements was your State paid by the distillers some sum of money or given some discount on future transactions which would recoup the State in respect to the transactions that had been made before the agreement was entered into?

Colonel BULLINGTON. We did not receive any; I don't think there had been many deals going on at that time. If there were we were not aware of it nor could we put our fingers on it, but from March 1938 to date, the State of Virginia has received from several concerns who has made special deals, in special territories, in open-license territories, probably some thirteen or fourteen thousand dollars that we would not otherwise have gotten.

Mr. BUCK. I see.

Mr. DAVIS. Mr. Bullington, when you gave \$70,000,000 as the sales in dollars—

Colonel BULLINGTON (interposing). I didn't say 70.

Mr. DAVIS. What was it?

Colonel BULLINGTON. In our State? You are talking about Virginia?

Mr. DAVIS. Yes.

Colonel BULLINGTON. Around 17,000,000; 17.

Mr. DAVIS. Seventeen. Was that for the calendar year 1938?

Colonel BULLINGTON. That was for the fiscal year running to July 1, 1938, the ending of our year.

Mr. DAVIS. Then you gave the figures in response to a question by Congressman Reece of your sales for the calendar year of 1938. Could

you either gave the dollar sales on the calendar-year basis or the gallon sales on a fiscal-year basis?

Colonel BULLINGTON. Before I left Richmond I thought the question might be asked as to the amount of gallons sold in the State of Virginia for the year ending 1938, and I have that information, but I do not know what it amounts to in dollars and cents.

Mr. BERGE. This thirteen or fourteen thousand dollars which was paid to the State, you say was during 1938?

Colonel BULLINGTON. From March, I should say, 1938, to date.

Mr. BERGE. Was that in regard to current business or was it retroactive?

Colonel BULLINGTON. I will put it this way. If, for instance, the National or Schenley or Seagram's or any one of them would, for a period of, say, a week or 10 days or 2 weeks, in the open license territory, make a special concession of 50 cents or a dollar a case on a certain item during that period, we were offered the same opportunity to take advantage of that if we desired to do it. In no instance do we anticipate our requirements; we buy as we sell, and where we could take advantage of that we did so and where we couldn't we didn't. We were placed on the same basis as the open license territory, which was all we wanted.

Mr. BERGE. Are these concessions granted retroactively? That is, if they have made them in other territory and concurrently have charged you a higher price, would they later refund?

Colonel BULLINGTON. I am not in position to say they charged us a higher price prior to going into this organization.

Mr. BERGE. Were any concessions paid relating to the time prior to the establishment of this?

Colonel BULLINGTON. No, sir; not in my State, and I am not in position to say that they were definitely made. I have the feeling that they were, but I don't know.

Acting Chairman REECE. Thank you very much.

(The witness was excused.)

Acting Chairman REECE. The committee will stand adjourned until 10 a. m. tomorrow morning.

(Whereupon, at 4:50 p. m., a recess was taken until Friday, March 17, 1939, at 10 a. m.)

# INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, MARCH 17, 1939

UNITED STATES SENATE  
TEMPORARY NATIONAL ECONOMIC COMMITTEE,  
*Washington, D. C.*

The committee met at 10:10 a. m., pursuant to adjournment on Thursday, March 16, 1939, in the Caucus Room, Senate Office Building, Representative Carroll B. Reece, presiding.

Present: Representatives Sumners (vice chairman), Reece, and Williams; Messrs. Henderson; Ferguson; Davis; O'Connell; Berge; Lubin; Ernest Tupper, representing Department of Commerce; Thomas D. Lynch, representing Securities and Exchange Commission; Willard Thorp and Robert R. Nathan, representing Department of Commerce.

Also present: Federal Trade Commissioners William A. Ayres and Charles H. March; Willis J. Ballinger, Director of Studies and Economic Advisor to Federal Trade Commission; William T. Kelley, chief counsel, Federal Trade Commission; Phillip Buck, chief counsel; and John P. Brown, attorney, Federal Alcohol Administration.

Acting Chairman REECE. The committee will please come to order. Mr. Ballinger, are you ready to proceed?

Mr. BALLINGER. Yes; Mr. Buck will continue the examination.

Acting Chairman REECE. Call your first witness, Mr. Buck.

Mr. BUCK. Mr. Chairman, I should like to say that in view of the time we have in which to complete the hearing, we will necessarily have to restrict the examination of some of the witnesses to particular points that my investigation has convinced me to be probably the most important of many points that they could testify to.

I should like to call two other witnesses to close out this particular phase of the hearing, that is, on distribution and prices, and the first witness I should like to call is Mr. Balfe, of National Distillers.

Acting Chairman REECE. Mr. Buck, is it your wish this morning that you complete the examination of the witnesses before the members of the committee ask questions of the witness?

Mr. BUCK. I think that would facilitate the hearing considerably in view of the time allowed.

Acting Chairman REECE. If it is agreeable to the committee, we will try to follow that policy. Of course, if at any time a committee member thinks it is desirable to ask a question, he can do so.

Mr. BUCK. I might say I have six witnesses to put through this morning and, as I say, I won't be able to develop their entire testimony.

Acting Chairman REECE. As I understand, it is the wish of the

chairman that we complete this phase of the hearing today so that we might have a recess.

Mr. BUCK. Mr. Balfe. (No response.)

If Mr. Balfe isn't here, I will call Mr. Greenlee, of Schenley Distillers. (No response.)

Is Mr. Archibald Kelley here? (No response.)

Mr. Marks.

Acting Chairman REECE. Do you solemnly swear, in these proceedings, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MARKS. I do.

### TESTIMONY OF LIONEL MARKS, PRESIDENT, WILLIAM JAMESON & CO., INC., NEW YORK, N. Y.

Mr. BUCK. Mr. Marks, will you state your name and business connection, please, sir?

Mr. MARKS. Lionel Marks, managing director, William Jameson & Co., London, and president of William Jameson & Co., Inc., New York.

Mr. BUCK. I notice you have a shamrock this morning. It is an Irish company, isn't it?

Mr. MARKS. It is an Irish company. I think I should share it with you, Mr. Buck.

Mr. BUCK. Does your company hold whisky in stocks in Ireland?

Mr. MARKS. Yes.

Mr. BUCK. Mr. Marks. I believe you had occasion over the past few years to become fairly well acquainted with the situation in Great Britain so far as the manufacture and production and control of whisky is concerned in that country.

Mr. MARKS. Yes, sir.

### PRODUCTION AND CONTROL OF WHISKY IN BRITISH ISLES

Mr. BUCK. Will you give to the committee, for the committee's benefit here, a short résumé of how whisky is produced there, how it is controlled—that is, Scotch and Irish and English whisksys?

Mr. MARKS. Well, Scotch whisky is divided into two classes. There is the malt whisky and the grain spirits, or grain whisky, as it is called. The malt whisky is comparable to the straight whisky in this country and gives the character and flavor to the blends of Scotch whisky. The grain spirits are comparable in a manner to the grain spirits in this country, and are used for diluting the heavier straight whisksys.

Mr. BUCK. And the resultant product is known as Scotch whisky.

Mr. MARKS. Both the straight pot-still whisky and the resultant blends are known as Scotch whisky in England. In this country the blend is known as blended Scotch whisky, because of your regulations.

Mr. BUCK. Now, give us a short résumé of the situation in Ireland.

Mr. MARKS. In the south of Ireland the manufacture of whisky is being practically confined to manufacturing or distilling straight whisksies.

Mr. BUCK. Straight Irish pot-still whisky?

Mr. MARKS. Straight pot-still whisky.

Mr. BUCK. What is the situation with respect to stocks on hand and ages?

Mr. MARKS. In the south of Ireland I think the present stock on hand are about 8,000,000 British proof gallons, and the average age would be in excess of 8 years, as far as I remember. The bulk of the stock in the south of Ireland is pot-still whisky; there is very little spirits in bond.

Mr. BUCK. Tell the committee what you mean by pot-still whisky.

Mr. MARKS. Pot still was the original form of manufacture. It is made in a still which is comparable to a glass retort, I mean the old-fashioned manner of distillation, in which there is not a continuous distilling process.

Mr. BUCK. You mean by that that the whisky must be distilled over again?

Mr. MARKS. Whisky in Ireland is frequently and mostly distilled three times.

Mr. BUCK. Whereas in a continuous still such as is used by large commercial plants here, there is one continuous process.

Mr. MARKS. There is one continuous process. The real difference is the fact that pot-still whisky is taken out at 145° British proof, that is approximately 160 American proof; whereas in the continuous-distilling process it is taken out at approximately 190 proof American.

Mr. BUCK. The British use what is known as a Sykes.

Mr. MARKS. They use a Sykes hydrometer for ascertaining the proof.

Mr. BUCK. Now, with respect to the commercial ownership of those stocks, how is that arranged in Britain?

Mr. MARKS. The custom of trade in production of whisky has changed greatly in the last 20 years in the United Kingdom, particularly in Scotland. The malt distilleries are mainly small-capacity distilleries, of which there are approximately, I think, around 140, and there are a number of them that are held, owned by one concern, others are held individually. In the grain-whisky production there are eight producing distilleries today, a number of them are shut down, but eight of them are producing, of which five are held in one group and one is held as a subsidiary of a Canadian company and is a subsidiary of a London company, and the other is independent.

Mr. BUCK. Out of the total distillery capacity there is one independent?

Mr. MARKS. One independent of any selling organization.

Mr. BUCK. What is the corporation or trust that controls a large share of the production?

Mr. MARKS. The Distillers Co., Ltd.

Mr. BUCK. And what part of the total Scotch whisky would you say is controlled directly or indirectly by the D. C. L.?

Mr. MARKS. You mean production, stocks, or sales?

Mr. BUCK. Ownership of whisky in reserve or in warehouses.

Mr. MARKS. Well, I think that figure was given under oath at a recent investigation in Scotland only about 4 or 5 weeks ago—December, as a matter of fact—and a witness who was from the statistical

department of the Distillers Co. gave their stocks as eighty-eight and one-quarter million gallons.

Mr. BUCK. And what percent of the total do you think that would be?

Mr. MARKS. I don't know what the total stocks are that were at that time in England. I should say they were somewhere around 130,000,000 gallons total, but I can let you have that figure accurately if you wish it.

Mr. BUCK. Will you put it in the record?

Mr. MARKS. Yes, sir.

Mr. BUCK. And of the approximate 130,000,000, D. C. L. controls 80,000,000?

Mr. MARKS. They own eighty-eight and a quarter million; yes.

Mr. DAVIS. Is that Scotch alone you are talking about, or all of the Great Britain liquors?

Mr. MARKS. It was all, as far as I understand the evidence that was given in Scotland, their stocks of Scotch, pot still, and grain whisky. On the total stocks, the stocks of the United Kingdom of all whiskies; is that what you mean? Does the Judge mean that?

Mr. DAVIS. I just wanted to definitely identify what you were designating.

Mr. MARKS. The figures given by the United Kingdom authorities are given for the whole of the United Kingdom; they don't separate them, as a rule. That includes Northern Ireland, Scotland, and England, and most of the stocks are held in Scotland; there is a very small proportion held in Northern Ireland today.

Mr. BUCK. Let's step it up now to getting the whisky into this country. How does D. C. L. ordinarily market its whisky in the United States?

Mr. MARKS. I am not very familiar with the methods of D. C. L. in the United States. I understand that they ship their whisky, as do other Scotch producers, to agents or purchasers here and it is distributed through those purchasers.

Mr. BUCK. Let me ask you this question: Do you know what brands are controlled by D. C. L., Scotch whisky brands marketed in the United States?

Mr. MARKS. I know a number of them; I don't know whether I could remember all of them, but I could remember the most prominent.

Mr. BUCK. Will you give the committee the benefit of your approximation of that?

Mr. MARKS. Well, Johnny Walker, Dewars, Buchanans, Haig, White Horse, Vat 69—I suppose they are the six leaders. And then there are the subsidiary brands such as King George and Huntley. I am not sure about King William; I think there are numerous others.

Mr. BUCK. Old Angus?

Mr. MARKS. Old Angus is not owned by the D. C. L.

Mr. BUCK. Would you say that by far the vast majority of the popular brands of the Scotch whisky sold in the United States is owned or controlled by D. C. L.?

Mr. MARKS. Of the popular brands; yes.

Mr. BUCK. Definitely?

Mr. MARKS. Yes.

Mr. BUCK. That is all.

(The witness, Mr. Marks, was excused.)

Acting Chairman REECE. Will you call your next witness?

(Mr. Buck called Mr. T. W. Balfe, Mr. Archibald Kelly, who did not appear.)

Mr. BUCK. Mr. Wile, of Schenley Distilleries.

Acting Chairman REECE. Do you solemnly swear, in these proceedings, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WILE. I do.

**TESTIMONY OF OSCAR J. WILE, VICE PRESIDENT, SCHENLEY  
IMPORT CORPORATION, NEW YORK, N. Y.**

Mr. BUCK. Will you state your name and business association, please, sir?

Mr. WILE. Oscar J. Wile, vice president of Schenley Import Corporation.

**ALLOCATION OF BRANDS TO IMPORTERS IN UNITED STATES THROUGH  
EXCLUSIVE AGENCY CONTRACTS**

Mr. BUCK. Are you acquainted with the arrangements made between Schenley Import Corporation and D. C. L. for the distribution of brands of Scotch whisky?

Mr. WILE. We have arrangements with Dewars, but not with D. C. L.

Mr. BUCK. With Dewars. What is the customary practice that you have? What is the customary practice in respect to allocations of brands? How are they allocated in this country to importers?

Mr. WILE. Well, they are not allocated at all. Importers make their application to foreign shippers of all kinds for the sole concession, the sole right to sell their goods in this country. There is no allocation by anybody abroad.

Mr. BUCK. Do you import your Scotch brands under exclusive and sole-agency contracts?

Mr. WILE. We do.

Mr. BUCK. And when those contracts are consummated between the foreign shipper and the American importer, does the American importer become the sole and only person in the United States who can buy their brand of whisky?

Mr. WILE. That is the case in the contract between Schenley and Dewars. I don't know what the conditions are with other people's contracts.

Mr. BUCK. That is the case in respect to your own contracts on Dewars?

Mr. WILE. Yes.

Mr. BUCK. Do you handle any other Scotch brands?

Mr. WILE. We do.

Mr. BUCK. What are they?

Mr. WILE. We handle the Scotch known as Bobby Burns.

Mr. BUCK. Is it the case there, too, as in all of your contracts?

Mr. WILE. In all of our contracts we are the sole distributors in the United States.

Mr. BUCK. In other words, Schenley under your contract with foreign shippers is the only company that can buy those particular brands for distribution in the United States?

Mr. WILE. That is correct.

Mr. BUCK. Now, what is the policy in respect to the distribution of those brands once they arrive here? What is your policy in marketing them in the United States in respect to allocation to dealers and so on?

Mr. WILE. We make a practice of selling to every wholesaler. We don't allocate to any particular dealer.

Mr. BUCK. You mean you don't give exclusive wholesale rights in specified territory?

Mr. WILE. With two exceptions in the United States we give no exclusive rights. Those are in the case of small States where we consider it wise to confine ourselves to one person, one firm.

Mr. BUCK. What States are they?

Mr. WILE. Florida and Rhode Island.

Mr. BUCK. In Florida and Rhode Island you do allocate those States to particular wholesalers?

Mr. WILE. That is correct.

Mr. BUCK. And they are the only wholesalers who can get this brand of whisky for distribution in those States?

Mr. WILE. No; any other wholesaler can buy them through the distributor that we appoint as our distributor.

Mr. BUCK. Yes; but he has to buy it through this man that you set up there.

Mr. WILE. That is correct.

Mr. BUCK. Now, what is your policy in respect to resale price maintenance on these brands?

Mr. WILE. Well, in certain States where there are fair-trade laws, where we consider it wise to put a resale price on Scotch whisky, we enter into fair-trade contracts.

Mr. BUCK. What percent of your business is covered by such contracts?

Mr. WILE. I would say less than 50.

Mr. BUCK. Less than 50 percent?

Mr. WILE. Yes.

Mr. BUCK. Do you maintain that contract relation in New York State?

Mr. WILE. Yes, sir.

Mr. BUCK. New Jersey?

Mr. WILE. Yes.

Mr. BUCK. Pennsylvania?

Mr. WILE. No.

Mr. BUCK. Why?

Mr. WILE. Because the State of Pennsylvania controls the price itself.

Mr. BUCK. Therefore you couldn't do it there.

Mr. WILE. You could not.

Mr. BUCK. And the reason you don't do it in several States is because of the State distribution system set-up where it can't be done, is that so?

Mr. WILE. Well, in some States there are no fair-trade laws; in other States the State buys and fixes its own prices.

Mr. BUCK. But with those two exceptions, either where you can't do it—let's put it all in that category—where you can't do it because of State laws, you do?



Mr. WILE. No; there are a good many States that have fair-trade laws that we don't put our goods under fair trade.

Mr. BUCK. What States?

Mr. WILE. Well, Arkansas, for instance.<sup>1</sup>

Mr. BUCK. What others?

Mr. WILE. I can't tell, off-hand. I am not sales manager of my company.

Mr. BUCK. Why don't you do it in Arkansas?

Mr. WILE. Because we consider it the better part of business not to put the whisky under fair-trade control.

Mr. BUCK. Why would it be good business not to do it in Arkansas and to do it in Maryland or New Jersey?

Mr. WILE. Well, because there don't seem to be the desire to cut prices down there that there is in other territories.

Mr. BUCK. You mean the dealers take care of that matter themselves?

Mr. WILE. That is right. The dealers take care of it themselves.

Mr. BUCK. Then they have some organization for that purpose?

Mr. WILE. I presume the dealers have.

Mr. BUCK. For maintaining the price?

Mr. WILE. I presume so.

Mr. BUCK. Under your contracts with foreign shippers on these brands, does the shipper contribute to the advertisement of the brand in the United States?

Mr. WILE. He does.

Mr. BUCK. And that is for the purpose of creating consumer demand for the particular brand here?

Mr. WILE. That is correct.

Mr. BUCK. And he also contributes to other forms of sales promotion in this country?

Mr. WILE. No; not our Scotch whisky shippers.

Mr. BUCK. Just the advertising?

Mr. WILE. Just the advertising.

Mr. BUCK. What do you list under advertising at that point?

Mr. WILE. We list under advertising only published advertisements in newspapers, magazines, or trade magazines.

Mr. BUCK. Mr. Wile, I had intended to ask another witness this question, but you have been with Schenley for some time. You know the business pretty well, generally.

Mr. WILE. I have been in it 40 years.

Mr. BUCK. What is the situation in respect to the New York market now—Schenley marketing whiskies generally, not imports alone?

Mr. WILE. I am executive in charge of the import company and I know nothing about the domestic division at all.

Mr. BUCK. Don't you sit in on general policy questions?

Mr. WILE. Our two companies are run entirely separate.

Mr. BUCK. I didn't ask you that. Don't you sit in on general policy questions of the corporation and hear them discussed, and so forth?

Mr. WILE. I do not.

<sup>1</sup> Mr. Wile, in his original testimony stated "Louisiana", but for the sake of accuracy later corrected it to "Arkansas" which is what he had in mind.

Mr. BUCK. You do not?

Mr. WILE. I do not.

Mr. BUCK. Do you mean to say, now, that you know nothing about the situation in respect to Schenley's in the New York market?

Mr. WILE. That is correct; I know nothing about their domestic situation.

Mr. BUCK. What about their imports? What is the condition of the New York market in respect to your imports, Schenley's imports?

Mr. WILE. Schenley's import company sells to every wholesaler that wants to buy from him in New York.

Mr. BUCK. How many want to buy? Do you have any difficulty in marketing in New York City?

Mr. WILE. None at all.

Mr. BUCK. None at all. Have you had to resort to the establishment of exclusive wholesale agencies?

Mr. WILE. Never have.

Mr. BUCK. Do you mean to say that Schenley doesn't have exclusive wholesale agencies in New York?

Mr. WILE. I believe Schenley domestic does. Schenley import does not.

Mr. BUCK. Don't you distribute through the same distribution channels?

Mr. WILE. We do not.

Mr. BUCK. You do not? When you take one of these brands under an exclusive contract for distribution in the United States, what assurances do you have that the brand will be retained by your company?

Mr. WILE. Well, the contract usually has a termination date beyond which we have no assurance.

Mr. BUCK. What is the usual term of the contract?

Mr. WILE. Some contracts run for 1 year, some for 10 years.

Mr. BUCK. You would say they run from 1 to 10 years?

Mr. WILE. That is correct.

Mr. BUCK. And they are sold on exclusive agency contracts?

Mr. WILE. That is correct.

Mr. BUCK. For popular brands.

Let's have the chart on imports. That is all of Mr. Wile, Mr. Chairman, if the committee has no questions.

Acting Chairman REECE. Are there any questions by members of the committee? [None.]

(The witness, Mr. Wile, was excused.)

Acting Chairman REECE. You may proceed.

#### COMPARISON OF CONSUMER COSTS OF SCOTCH WHISKY IN LONDON AND NEW YORK

Mr. BUCK. This chart, Standard Consumer Cost of Scotch Whisky, at this point is introduced for the purpose of comparing the consumer cost on Scotch whisky as between London and New York. The figures are based on market situation as it existed last week, I believe. It is a standard Scotch whisky 8 years old, four-fifths of a quart, you will observe. That is not a full quart of whisky, even. That is four-

fifths, 86.8 proof, and the conversion into money is based upon the pound sterling at \$4.89, which we figure to be the average rate of conversion for 1938.

The chart is interesting, I feel to the committee, for many reasons. It compares the consumer price in London at \$3.31 for a fifth to the price in New York at \$3.39, a difference of only 8 cents a bottle.

It is noticeable there that the Government in Britain levies upon that four-fifths of a quart of whisky apparently \$2.24 in taxes, whereas the Federal and State taxes, including the tariff on the whisky when imported to the United States, figure only \$1.15. It pays no tax of any consequence that I know of to the British Government when exporting.

Notwithstanding the great difference between the amount of taxes levied by the respective Governments upon that bottle of whisky, we find that the consumer in the United States is paying about the same price as the consumer in London. Another interesting point in the chart is the allowance to the retailer in Great Britain, that is, the total mark-up from distiller to consumer in Great Britain, we figure, is 28 cents on that bottle as against \$1.37½ in the United States.

The distiller's cost and profit vary to a short and small degree, but the interesting comparison—and it, of course, by implication involves the whole distribution system and the costs thereof—is that, notwithstanding the fact that Great Britain levies nearly twice the tax that the United States does, still the consumer pays the same price in the United States as he does in London.

Acting Chairman REECE. What is the system of distribution in England? Is it by private distribution or is it done by the Government?

Mr. BUCK. Privately distributed.

I will ask that the chart be numbered for the record, Mr. Chairman, as the others have been.

(The chart referred to was marked "Exhibit No. 420" and is included in the appendix on p. 2703.)

(Representative Sumners, the vice chairman, took the chair.)

The VICE CHAIRMAN. Pardon me, do you know exactly what tax liquor pays to the British Government?

Mr. BUCK. Congressman Sumners, yes; that is the tax he pays to the British Government when sold in Great Britain.

The VICE CHAIRMAN. That liquor that is exported from Great Britain to this country—prior to exportation, what tax does it pay?

Mr. BUCK. It is a very nominal sum; I believe it amounts to about 6 or 7 cents a gallon; I wouldn't be quite sure. It is just a shade of some excise charge there.

The VICE CHAIRMAN. It doesn't really figure into the American price.

Mr. BUCK. No; it does not.

Mr. Chairman, I am advised that Mr. Balfe, of National Distillers, is here, and I would like to revert back to the point we had up yesterday afternoon for just a moment.

The VICE CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BALFE. I do.

**TESTIMONY OF T. W. BALFE, VICE PRESIDENT AND GENERAL SALES MANAGER, NATIONAL DISTILLERS PRODUCTS CORPORATION, NEW YORK CITY**

Mr. BUCK. Mr. Balfe, state your name and business connection, please, sir.

Mr. BALFE. Tom W. Balfe, vice president and general sales manager of National Distillers Products Corporation.

Mr. BUCK. You have charge of the sales and distribution of products for National Distillers in this country?

Mr. BALFE. Yes, sir; except that the monopoly State sales are in charge of Mr. MacNamara; the open-State sales are in my charge.

Mr. BUCK. You have all open-State sales in the country?

Mr. BALFE. Yes, sir.

**EXTENSION OF CREDIT TO WHOLESALERS<sup>1</sup>**

Mr. BUCK. What is the approximate amount of credit extended by National to wholesalers in open States at the present time on its distribution?

Mr. BALFE. I can only answer that by saying that it would vary, of course, in the community you are doing business in, and also with the individual distributor.

Mr. BUCK. In round figures, is it \$10,000,000 or \$8,000,000, or what? How much credit do you carry?

Mr. BALFE. I truthfully haven't those figures, but in round figures I would say it could be seven or eight million.

Mr. BUCK. That is a normal, you feel, and a minimum, between seven and eight million?

Mr. BALFE. No; I will take that back. I would think 5,000,000 was nearer it. I think you have that report on your questionnaire.

Mr. BUCK. It is in your annual report, I suppose, but it is mixed up with other things and I couldn't very well tell. It is between five and eight million.

Mr. BALFE. I would think so.

Mr. BUCK. And how many States does that apply to?

Mr. BALFE. It applies to the whole country.

Mr. BUCK. You have to except the monopoly States.

Mr. BALFE. It includes them.

Mr. BUCK. Some of the monopoly States pay cash, do they?

Mr. BALFE. I don't think any of them pay cash. I think some of them pay their bills within 10 days, some of them 30 days.

Mr. BUCK. Now will you give the committee an illustration or some understanding about the length of credit? How long does credit run? What is your longest credit account, I will ask you that, of any consequence?

Mr. BALFE. I truthfully couldn't answer that. Our terms are cash less discount of 1 percent in 10 days, one-half of 1 percent in 30 days, and 60 days net.

Mr. BUCK. I know those are your printed terms, but I am talking about what is the practice.

<sup>1</sup> This subject is resumed from p. 2570 et seq.

Mr. BALFE. I would say very definitely that our practice is to keep our accounts paid up.

Mr. BUCK. Well, for instance, I have heard that there are wholesalers that are being practically financed by distillers; that is the point I am getting at. Now, to what extent do you do that?

Mr. BALFE. I would say not to any extent whatsoever.

Mr. BUCK. On what basis do you extend the credit? Do you rate the purchaser on his worth, his assets?

Mr. BALFE. I would say very decidedly yes.

Mr. BUCK. How would you account for a wholesaler who had only \$50,000 in assets who might owe \$300,000 for whisky? Would that be a rating on assets, in your opinion?

Mr. BALFE. No; I would say not.

Mr. BUCK. It would not be?

Mr. BALFE. Yes, sir.

Mr. BUCK. Would you have such cases on your books?

Mr. BALFE. I would say no.

Mr. BUCK. You are not certain about that?

Mr. BALFE. I am not certain about it. We have a credit department. The credit department is entirely separate and distinct from my department. I would feel very certain, though, that they would not extend any such credit.

Mr. BUCK. Have you accounts, wholesalers, that you do practically finance in order to keep them going and to take your lines?

Mr. BALFE. No, sir.

Mr. BUCK. You think not?

Mr. BALFE. I know not.

Mr. BUCK. I might say just in line with Mr. Balfe's testimony, Mr. Chairman, that the annual report of the company for 1938 shows notes and accounts receivable, less reserve for doubtful accounts, of \$19,948,544.52.

The VICE CHAIRMAN. Is that out of proportion to the bills receivable of ordinary commercial concerns, when you compare the volume of sales and credit?

Mr. BUCK. I wouldn't know, Mr. Chairman. I don't know. The point here, Mr. Chairman, is this, as I understand it. There is some talk—truthful or not, I don't know—to the point that the large companies can afford to extend wholesalers unusual and more than ordinary commercial terms in order to get the wholesaler to represent them, and the smaller companies with less capital haven't that amount of money to carry these wholesalers in such amounts.

The VICE CHAIRMAN. Is there any evidence, or do you purpose to develop any evidence, that the distillers require that wholesalers carry their goods exclusively?

Mr. BUCK. We touched upon that yesterday. That seems to be a controverted question, too. There are all sorts of individual practices, apparently, in the industry, and none that can be taken on that point as being general, I should say.

The VICE CHAIRMAN. I am not familiar with the direction of this particular examination, and certainly not the objectives of the examination, so I suspect I had better not interfere. I would suggest, however, that we cut through some of these details as fast as possible and get right down to the point.

Mr. BUCK. That about concludes my examination of this witness.

Representative REECE. Yesterday some reference was made to the credit agreements by some of the larger companies with the banks. Is it your purpose to develop the question as to whether there is any disposition on the part of the banks to restrict credit out of proportion to the smaller companies?

Mr. BUCK. Congressman, I am putting the facts in the record. I don't know what the proper conclusions ought to be from those facts. I put into the record yesterday the banking agreement of the large companies, whereby it is conclusively shown, of course, that they do have at least ample financial assistance under those agreements. Now, I haven't been able to find anything comparable to that in the average concern. As to what conclusions the committee might draw from that, I don't know.

Representative REECE. My thought was going to the point as to whether you expected to develop the other phase of the credit situation so as to show any situation which might exist with reference to the so to speak smaller concern; that is all.

Mr. BUCK. Mr. Tunney testified yesterday, you will recall, that of course the big companies could do this, but the smaller companies could not. That was one point there.

Vice Chairman SUMNERS. Have you developed what credit is ordinarily required by a retailer in order to carry on the liquor business?

Mr. BUCK. No; I have not, Congressman Sumners. I don't know that you could.

The VICE CHAIRMAN. May I ask one or two questions; and if I cover territory you have already covered, be good enough to indicate to me so we won't duplicate it in the record.

What is the average credit in your sales—length of time?

Mr. BALFE. I am sorry, sir; I couldn't answer that. Our accounts range from small distributors; you see, we do not sell to the retailer at all.

The VICE CHAIRMAN. If you can't answer it, all right.

Mr. BALFE. I couldn't answer it.

Mr. NATHAN. What was the volume of sales during the period when the notes "accounts receivable" were \$19,000,000?

Mr. BALFE. I think Mr. Porter testified—I think that is a matter of record—\$6,000,000?

Mr. NATHAN. Were those notes receivable primarily from wholesalers, notes receivable on credit granted to wholesalers?

Mr. BALFE. Yes, sir; I would say so.

Mr. NATHAN. That would seem to indicate an average credit duration for that period of somewhere between 3 and 4 months, if you have \$19,000,000 outstanding in notes accounts receivable, about \$68,000,000 sales. That would seem to indicate that there was a turnover of three to four times a year, or somewhere between 3 to 4 months' average duration of the credit range.

Mr. BALFE. I am certain that is not correct as you have put it, but truthfully it is a financial matter that I am not competent to answer.

The VICE CHAIRMAN. Have you someone with your organization that can testify on these points?

Mr. BALFE. I would be very glad to get any information that you want with reference to the \$19,000,000 and the break-down of it, if you would like it.

Mr. BUCK. Mr. Chairman, I would suggest we ask the witness to put it in the record and furnish it to me.<sup>1</sup>

The VICE CHAIRMAN. Also indicate, if it isn't an improper thing to do, what small liquor people you have declined to sell because they were not able either to pay cash or give you assurance of payment in a reasonable time.

Mr. BALFE. I could say those instances must be few and far between.

The VICE CHAIRMAN. Personally I would like to know whether or not you have in your business record a declined sale on your part to a small liquor man because his ability to pay in a reasonably short length of time was not good.

Mr. DAVIS. Do you require the wholesalers to execute notes, promissory notes, covering their accounts unless they have extended beyond the 60-day period, which is net?

Mr. BALFE. I didn't understand the last part of that—beyond the 60-day period. Do you mean do we take from our customers notes if they run beyond the 60-day period?

Mr. DAVIS. Yes. You explained in response to questions of Mr. Buck what your regular rates were.

Mr. BALFE. Yes, sir.

Mr. DAVIS. Sixty days net. Now unless a wholesaler fails to pay his account by the expiration of 60 days, you do not require him to execute notes receivable, do you?

Mr. BALFE. I would say not. We are very strict on our credit terms of 60-day periods.

Mr. DAVIS. In other words, the figure given of \$19,000,000 notes receivable only covered the indebtedness to you in the form of notes which had extended beyond the 60-day period.

Mr. BALFE. I would say a very large part of that is represented by notes covering beyond that period.

Mr. DAVIS. How was that designation given, Mr. Buck?

Mr. BUCK. You mean what was the amount, Judge?

Mr. DAVIS. No; what was the designation of that item?

Mr. BUCK. Notes and accounts receivable.

Mr. DAVIS. Notes and accounts? What percentage of that would you say was represented by notes as distinguished from open accounts?

Mr. BALFE. I truthfully do not think I could answer that authoritatively. If I were to make a guess I would say possibly one-third or one-fourth.

Mr. DAVIS. One-third open accounts?

Mr. BALFE. Oh, no; I would say the reverse.

Mr. DAVIS. The reverse?

Mr. BALFE. Yes. I would much rather furnish that information to you.<sup>1</sup>

Mr. DAVIS. I thought you first stated that your outstanding accounts were only about 5 or 8 million dollars.

Mr. BALFE. I qualified that by saying it was my guess and it was a very rough estimate based on our sales as to what they might be, but I can see they would run more than that, we giving 60-day terms. So from that I estimated just as an estimate two-thirds and one-third.

Mr. BUCK. Mr. Balfe, do you have wholesalers—let's take the four corporations, Schenley, Seagram, Walker, and National. Do any of your wholesalers handle your lines and none of the other three?

Mr. BALFE. I think we have one distributor only, Mr. Buck, and that is of a very recent date, who handles not any of the other three lines.

Mr. BUCK. Where is that distributor?

Mr. BALFE. Baltimore.

Mr. BUCK. What about the Chicago market?

Mr. BALFE. In the Chicago market every distributor we have handles Hiram Walker, Calvert, or Seagram.

Mr. BUCK. The same comparable price bracket?

Mr. BALFE. Hiram Walker line is in most cases comparable to our line in the price brackets, yes.

Mr. BUCK. Would that be generally true, you say?

Mr. BALFE. Yes, sir.

Mr. BUCK. That is all.

Mr. BALFE. Thank you.

(Mr. Balfe was excused.)

Mr. BUCK. Is Mr. Archibald Kelly here?

The VICE CHAIRMAN. Do you solemnly swear, in these proceedings, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KELLY. I do.

#### TESTIMONY OF ARCHIBALD KELLY, PRESIDENT, DISTILLERS CO., LTD., OF DELAWARE, NEW YORK CITY

Mr. BUCK. Mr. Kelly, will you state your name and business connections, please, sir, and address?

Mr. KELLY. Archibald Kelly; address, 35 Helena Ave., Larchmont, N. Y.; occupation, president of the Distilleries Co., Ltd., of Delaware, and also correspondent of the D. C. L., Great Britain.

The VICE CHAIRMAN. What do you mean by correspondent? Anybody can write.

Mr. KELLY. To keep my company in touch with any matters of interest, in the United States, to them.

The VICE CHAIRMAN. You write them on any matters that develop in the United States that are of interest to them?

Mr. KELLY. In connection with taxes, duties, labeling, regulations; also to advise and recommend in connection with the appointment of distributors.

The VICE CHAIRMAN. You have some sort of relationship with that company in connection with selling their liquors in America?

Mr. KELLY. No; not with selling their liquors in America.

The VICE CHAIRMAN. What doing, then?

Mr. KELLY. The duties I have already outlined, plus putting them in touch and advising and recommending regarding the appointment of distributors to sell their liquors in America.

The VICE CHAIRMAN. You are in advisory capacity?

Mr. KELLY. Advisory.

The VICE CHAIRMAN. Are you on salary with them or do you have an interchange of service?

Mr. KELLY. Salary.

The VICE CHAIRMAN. Thank you.



Mr. BUCK. Mr. Kelly, I believe you have a Distillers Co., Ltd., in the United States as well as in Great Britain.

Mr. KELLY. Yes; the Delaware company.

Mr. BUCK. That is a Delaware corporation?

(Mr. Kelly nodded in the affirmative.)

Mr. BUCK. And you are president or manager of it?

Mr. KELLY. President of the Delaware corporation.

Mr. BUCK. How long have you been with D. C. L., of Great Britain?

Mr. KELLY. Since 1930 between Canada and the United States.

Mr. BUCK. 1930.

Mr. KELLY. I might say, in Canada I was with the Distillers Co. of Canada, Ltd., which is the Canadian subsidiary of the D. C. L., and since I came to the States after repeal, then I have been the president of the Delaware Co. of the D. C. L., Great Britain.

Mr. BUCK. And as you term it, a corresponding factor, so to speak.

Mr. KELLY. For the Scotch whisky end of it.

Mr. BUCK. For the Scotch whisky lines of the whisky trust?

Mr. KELLY. For the D. C. L. of Great Britain.

#### OPERATIONS OF D. C. L. AND ITS SUBSIDIARIES IN MARKETING SCOTCH WHISKY

The VICE CHAIRMAN. Does the D. C. L. own this Delaware corporation?

Mr. KELLY. D. C. L. owns 250,000 shares out of 850,000 shares of the Delaware corporation, and the balance is owned by the various gin companies which are subsidiaries of the Distillers Co. of Great Britain.

The VICE CHAIRMAN. Let's get that clear. This Delaware corporation is owned either by the parent concern or by the subsidiaries of that parent concern mentioned by you.

Mr. KELLY. Between the parent concern and the British gin distilleries they own 100 percent of the Delaware Co.

The VICE CHAIRMAN. What is the relationship between what you designate as the parent concern and the gin distilleries?

Mr. KELLY. By the parent concern I mean the Distillers Co. and their British gin subsidiaries over there.

The VICE CHAIRMAN. What is wrong with my question insofar as its comprehensiveness that the parent concern and its subsidiaries own the Delaware corporation, Who else owns it? Anybody else?

Mr. KELLY. Nobody.

The VICE CHAIRMAN. That is all. Thank you.

Mr. BUCK. Mr. Kelly, would you state for the committee the brands of Scotch whisky sold in the United States that are owned or controlled by the D. C. L. of Great Britain?

Mr. KELLY. Well, as far as I can remember, there is the Johnnie Walker whiskies, Haig & Haig, Dewar's, White Horse, Black and White, Vat 69, Green Stripe, Sandy MacDonald, Bulloch Lade, Peter Dawson, Watson No. 10, King William, King George. And I think that is about all I can remember just now. There are many of them but I will be able to give you a list of them.

Mr. BUCK. If you find what you have stated is not all, will you give me a list?

Mr. KELLY. I would be pleased to.<sup>1</sup>

Mr. BUCK. Are all of those brands distributed in the United States through sole agency contracts?

Mr. KELLY. Through sole distributorship contracts.

Mr. BUCK. Yes; I appreciate the distinction between agency and distributors. I notice you carry it in your contract. In other words, your distributors are not allowed to bind the parent company in any way. That is the point, isn't it?

Mr. KELLY. None whatever.

Mr. BUCK. But they are the only people in the United States who can get this whisky, these particular brands?

Mr. KELLY. These particular brands. Each American distributor has a brand.

Mr. BUCK. No one else can buy from corporations?

Mr. KELLY. No.

Mr. BUCK. As I understand it, the D. C. L. allows a certain per cent of the total purchases for advertising in the United States, creating consumer demand.

Mr. KELLY. No.

Mr. BUCK. What is the advertising arrangement?

Mr. KELLY. In the case of what we call the bigger brands they make a lump sum appropriation irrespective of the sales, which the distributor spends to the best of his ability for that brand in the United States.

Mr. BUCK. What would you call the higher brands?

Mr. KELLY. Dewar's, Haig & Haig, Johnnie Walker, Vat 69, Black & White, and White Horse.

Mr. BUCK. And who are the agent's sole distributors of those in the United States?

Mr. KELLY. Haig & Haig is Somerset Importers, Ltd.; White Horse, Browne Vintners Co., Inc.; Johnnie Walker, Canada Dry Ginger Ale Co.; Vat 69, Park & Tilford; Black & White, Fleischmann Distilling Co.; and Dewar's, the Schenley Import Corporation.

The VICE CHAIRMAN. May I ask, are these distributors that you mention selected as a result of your recommendation under your responsibility as correspondent?

Mr. KELLY. No; the most of the original arrangements were made in the latter part of 1933, just before repeal, when the directors of the Distillers Co., Ltd., of Great Britain came over here and selected their distributors.

The VICE CHAIRMAN. Is there more than one distributor for a given brand in the United States?

Mr. KELLY. No; we have one sole distributor for each brand.

The VICE CHAIRMAN. Are the businesses of these distributors owned to any degree by either the parent concern or any subsidiary of the parent concern, referring now to the British organization?

Mr. KELLY. Do I understand you to say, does—

<sup>1</sup> Mr. Kelly supplied the committee with a list of the principal brands owned or controlled by Distillers Co., Ltd. (Edinburgh), now being imported by American distributors, in a letter dated March 21, 1939. It was marked "Exhibit No. 432" and is included in the appendix on p. 2720.

The VICE CHAIRMAN (interposing). I was asking the question whether or not the business of the distributors is owned to any degree either by the chief British concern or any of its subsidiaries.

Mr. KELLY. None; no interest whatever.<sup>1</sup>

The VICE CHAIRMAN. That is all.

Mr. BUCK. How long do the contracts run?

Mr. KELLY. Well, they vary from 10 years down to 1 year.

Mr. BUCK. What about the main brands that you have mentioned?

Mr. KELLY. Mostly 10 years.

Mr. BUCK. Ten years exclusive sole distributor contracts?

Mr. KELLY. Yes.

Mr. BUCK. How many sole distributors do you have outside of New York City?

Mr. KELLY. None.

Mr. BUCK. All in New York?

Mr. KELLY. Oh, no; there is S. S. Pierce & Co., of Boston, who have the Glengarry Brand, which is a brand that I omitted to mention.

Mr. BUCK. That is a secondary brand, is it?

Mr. KELLY. That is one of our smaller brands.

Mr. BUCK. With that exception, they are all held in New York City?

Mr. KELLY. All held in New York City.

The VICE CHAIRMAN. Will you undertake to develop whether or not there is any relationship in ownership, direct or indirect, among these distributors?

Mr. BUCK. I am working on a report to be filed, Mr. Congressman.

The VICE CHAIRMAN. Then I withdraw the suggestion. It would be very interesting, I think, to know about it.

Mr. BUCK. Of course, some of these sole agencies are subsidiaries of our own large domestic distillers.

The VICE CHAIRMAN. That has been developed and put in the record?

Mr. BUCK. That is an acknowledged fact.

Mr. BUCK (to Mr. KELLY). Now, suppose a sole distributor should permit Haig & Haig to be sold at what the Distillers Co., Ltd., considered to be less than a reasonable price to be charged to the consumer. What would happen to that contract?

Mr. KELLY. The Distillers Co. have no control over the price or policy of their American distributors.

Mr. BUCK. Yes; they have no control, but what in practice would take place there? If I should have an exclusive agency for Haig & Haig in the United States, and say it is now selling at \$3 a bottle, and I should permit it to be sold at \$1.50 a bottle—suppose the price of Haig & Haig dropped to \$1.50 a bottle, what would happen to that contract?

Mr. KELLY. Nothing.

Mr. BUCK. You think not?

Mr. KELLY. Nothing.

Mr. BUCK. Would you recommend its renewal?

Mr. KELLY. In the 10-year contract many of them have very many years to go, so it is a question of what I might do 10 years from now.

<sup>1</sup> In this connection, Mr. Kelly advised the Committee, in a letter dated May 16, 1939, "that in 1936 the British company acquired in the open market approximately 4% of the capital stock of Schenley Distillers Corporation, a subsidiary of which is a distributor of the brands of one of the British companies."

Mr. BUCK. You also have some 1-year contracts?

Mr. KELLY. One-year contracts? Certainly I would recommend the renewal.

Mr. BUCK. Even though they were selling Haig & Haig at \$1 a bottle.

Mr. KELLY. Yes; because we have no concern or interest in the resale price in the United States.

Mr. BUCK. As a matter of fact, you wouldn't know whether, in turn, these brands of whisky are sold under resale price-maintenance contracts in this country?

Mr. KELLY. I have no record whatever of any resale prices of any of our brands, either to wholesalers or distributors.

Mr. BUCK. You make no effort to have the geographical distribution of these agencies' contracts? That is obvious from your statement before.

Mr. KELLY. None whatever.

Mr. BUCK. What does Distillers Co., Ltd., in the United States manufacture?

Mr. KELLY. The various brands of gins that they acquired from the British companies when we formed the Distillers Co. of Delaware. The brands are the Gordon's, Burnett's, Boord's, Hill's & Underwood's, and some other ones.

The VICE CHAIRMAN. Do those goods indicate where they are manufactured?

Mr. KELLY. They are all manufactured in Linden, N. J.

The VICE CHAIRMAN. And that is indicated on the bottle?

Mr. KELLY. On the bottle and on the label.

Mr. BUCK. Our law, Mr. Congressman, requires that that be done. However, most of them are brands that were manufactured in England at one time, I suppose, and established a reputation as English brands and then were brought to this country and manufactured here.

Mr. KELLY. Yes.

Mr. BUCK. Do you happen to know the capital, the value, the assets of D. C. L.?

Mr. KELLY. No. I know it consists of 10,000,000 common shares.<sup>1</sup>

Mr. BUCK. Would £20,000,000 be an approximation, do you think?

Mr. KELLY. Approximating the market value of their shares at \$20, that would be about £40,000,000.

Mr. BUCK. Mr. Kelly, would you know the specific amounts allowed on certain brands for advertising in a year in the United States?

Mr. KELLY. Yes; I know the appropriation amongst the main brands.

Mr. BUCK. Take Haig & Haig as an illustration. Would \$241,997 be an approximation?

<sup>1</sup> In the letter of May 16, 1939, cited in footnote 1 on the preceding page, Mr. Kelly advised that he has since ascertained that according to the last published balance sheet of The Distillers Company Limited, as at May 15, 1938, the capital was stated as follows:

Ordinary Stock-----	£10,690,962
6% Cumulative Preferred Stock-----	2,200,000

12,890,962

As at said date the total assets of The Distillers Company Limited were carried at £34,270,966/2s/4d."

Mr. KELLY. No; far too high.

Mr. BUCK. For 1938?

Mr. KELLY. 1938.

Mr. BUCK. What would be the proper amount?

Mr. KELLY. £35,000. That would be, roughly, \$175,000 at \$5.

Mr. BUCK. That is all.

Mr. BALLINGER. I would like to ask you a question, Mr. Kelly. You are acquainted with how the D. C. L. operates in Great Britain. Do they sell to wholesaler, and wholesaler sell to retailers?

Mr. KELLY. I am not very well acquainted with their principle of doing business in the United Kingdom. All my business experience with the D. C. L. has been between the United States and Canada.

Mr. BALLINGER. Very well. Then I won't ask these questions of you.

Dr. LUBIN. Mr. Chairman, may I ask the witness a question?

The VICE CHAIRMAN. Yes, sir.

Dr. LUBIN. These distributors are purchasers of the products of the D. C. L. They make an outright purchase and distribute the products after they make the purchase.

Mr. KELLY. They make the purchase in England and pay for the goods in England, and the goods then belong to them?

Dr. LUBIN. Is there anything in any of the contracts or any practices in existence which have anything to do with determining the amount that they must sell or purchase in a given year?

Mr. KELLY. Yes. I believe the minimum is 100,000 cases per annum.

Dr. LUBIN. Is there any maximum limitation of the amount they may purchase?

Mr. KELLY. No maximum.

The VICE CHAIRMAN. Any other questions, gentlemen? (None.)

Mr. BUCK. That is all.

(The witness, Mr. Kelly, was excused.)

Mr. BUCK. Mr. Newman, please.

The VICE CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. NEWMAN. I do.

### TESTIMONY OF JOSEPH H. NEWMAN, PRESIDENT, BROWNE-VINTNERS CO., INC., NEW YORK CITY

Mr. BUCK. State your name and business.

Mr. NEWMAN. Joseph Newman, president of Browne-Vintners Co., Inc.

Mr. BUCK. Mr. Newman, does Browne-Vintners Co. hold the sole agency or sole distributors contract on White Horse Scotch whisky?

Mr. NEWMAN. They do.

Mr. BUCK. How do you market that whisky in the United States? What is your marketing policy?

Mr. NEWMAN. Selling it to the different wholesalers through the country.

Mr. BUCK. Do you market it under resale price maintenance agreements?

Mr. NEWMAN. In some of the States.

Mr. BUCK. In most States?

Mr. NEWMAN. Well, probably half a dozen, where they have fair-trade contracts.

#### TYPICAL SOLE AGENCY CONTRACT

Mr. BUCK. I hand you an agreement and ask you if that is one of the typical agreements or is the typical form of the agreement used by your company?

Mr. NEWMAN. That is correct.

Mr. BUCK. May I file that for the record?

Mr. NEWMAN. Yes, sir.

Mr. BUCK. I ask that it be received.

The VICE CHAIRMAN. It will be admitted.

(The agreement referred to was marked "Exhibit No. 421" and is included in the appendix on p. 2703.)

Mr. BUCK. Mr. Chairman, I would like also to submit a copy of an agreement, one of the contracts under which these sole distributor agencies are created. Some of these contracts, however—I think all of them—set forth the price at which the distributor buys the whisky, and I understand that that might cause some uneasiness in the trade, and at least it is a matter that they wouldn't want put in.

Mr. NEWMAN. Yes.

Mr. BUCK. So I submit it to the committee whether they think the price schedules under those circumstances should be omitted from the agreement or not.

The VICE CHAIRMAN. As I understand it, you propose to submit the document with the suggestion that there is objection on the part of the trade to having their price schedules incorporated.

Mr. BUCK. Yes, sir.

The VICE CHAIRMAN. Do they want to make any further showing of protest than to indicate that protest and let the committee have it?

Mr. NEWMAN. No.

Mr. BUCK. I think not; I think that would be the general attitude.

Mr. NEWMAN. That is all right.

The VICE CHAIRMAN. You be certain, so in the completion of the record it won't be overlooked.

Mr. BUCK. I will.

The VICE CHAIRMAN. I assume that these gentlemen who are attending the hearings will see to it.<sup>1</sup>

Mr. BUCK. Mr. Newman withdraws his objection to this particular contract; and I will say to the trade, those that are present, that unless they object, the committee might consider this as a typical contract to a sole agency or distributor, if that is satisfactory to the committee.

The VICE CHAIRMAN. That is satisfactory to the committee; but I think it should appear at this point and be very clear that if it is contended by any of the gentlemen here who represent other concerns that this contract is not typical, at this point in the record would be the proper place to indicate their lack of agreement.

Mr. GUY MASON (Washington, D. C., counsel, Park & Tilford). I make that reservation for Park & Tilford.

<sup>1</sup> Referring to counsel for various witnesses.

The VICE CHAIRMAN. You make the reservation that it is not typical?

Mr. MASON. For the time being, for Park & Tilford.

The VICE CHAIRMAN. The committee clerk has noted that.

Mr. GEORGE R. BENEMAN (Washington, D. C., counsel, Schenley Import Corporation). On behalf of Schenley Import Corporation, we, of course, have never seen that contract.

The VICE CHAIRMAN. Are you making this to save the point or because your examination of the document indicates that it is not typical?

Mr. BENEMAN. I am making the point, Mr. Chairman, because I have never seen that document.<sup>1</sup>

The VICE CHAIRMAN. You reserve the point because you have never seen it?

Mr. MASON. That is the basis of my reservation.

The VICE CHAIRMAN. It is saving your point.

Mr. BUCK. Are there others?

The VICE CHAIRMAN. I think it would be, unless you gentlemen are very attentive on this inquiry at the moment, a good time to examine that record and then see whether or not you have more objection than that which would be purely technical.

Mr. BUCK. Mr. Chairman, on that point, those who feel this is not a typical representation of the contract, I would suggest file their individual contracts for the record.

The VICE CHAIRMAN. That is a good suggestion, and let them all come in at this point, if it can be arranged. I mean physically at this point.

Mr. MASON. Speaking for Park & Tilford, we have no objection to the contract going in. We do wish to exclude, if possible, short of going to jail for contempt, our price list.

Mr. BUCK. Mr. Mason, will you file a copy of Park & Tilford's contract and take out your price list?

Mr. MASON. We will be glad to do so, and we will furnish the price list confidentially to the committee or to the Federal Trade Commission.<sup>2</sup>

Mr. BUCK. Will all you gentlemen who declare this not to be a typical contract do the same thing?

The VICE CHAIRMAN. Now, we understand clearly that this is to go in, and their own trade contracts are to go into the record. In addition to that, their respective price lists are to be furnished for the information of the committee or the Trade Commission.

Mr. BUCK. That is right.

(The Browne-Vintners agency contract was marked "Exhibit No. 422" and is included in the appendix on p. 2705.)

Mr. BUCK. Do you have, on behalf of Browne-Vintners Corporation, any other sole-agency contracts for any brands of Scotch whisky?

Mr. NEWMAN. We have not.

Mr. BUCK. You have the White Horse brand.

Mr. NEWMAN. That is correct.

<sup>1</sup> Counsel for Schenley Distillers Corporation, after reading the agreement, subsequently returned it to the committee clerk with the statement that it is substantially typical of the Schenley Import agreement.

<sup>2</sup> Later submitted by Mr. Mason. See p. 2612, *infra*, and appendix, pp. 2709 and 2711.

Mr. BUCK. I may say that I have consular invoices on these goods, on most of the contracts already furnished on subpoena duces tecum, but I would prefer that they put them in voluntarily. I think that would be more agreeable to the industry.

The VICE CHAIRMAN. Whoever has charge of this record will see if they do come in that they come in right at this point, so they will not be distributed.

Mr. BUCK. That is right.

Mr. Newman, do you have the same arrangement in respect to advertising of your brand of Scotch in this country? Does the foreign factory contribute to the sales promotion in the United States?

Mr. NEWMAN. They do.

Mr. BUCK. Would you care to say to what extent they contribute to the sales promotion of White Horse?

Mr. NEWMAN. £35,000.

Mr. BUCK. £35,000 a year?

Mr. NEWMAN. Yes.

Mr. BUCK. Are you obligated under the contract to contribute a like sum or some proportionate amount?

Mr. NEWMAN. We are.

Mr. BUCK. What is that?

Mr. NEWMAN. A dollar a case.

Mr. BUCK. Each case that you import?

Mr. NEWMAN. Yes.

Mr. BUCK. That dollar a case, of course, is charged in your price made to wholesalers and consumers on the goods?

Mr. NEWMAN. Quite right.

Mr. BUCK. And you are obligated under the contract to make that distribution.

Mr. NEWMAN. That is right.

Mr. BUCK. Otherwise the contract is subject to cancelation.

Mr. NEWMAN. Well, I suppose so.

Mr. BUCK. Are you obligated under the contract to take and dispose of a specific amount of whisky each year?

Mr. NEWMAN. One hundred thousand cases.

Mr. BUCK. You must take and dispose of 100,000 cases?

Mr. NEWMAN. Right.

The VICE CHAIRMAN. May I ask one point before we get further away: Do you have any contracts or agreements that supplement this written contract that you turned in?

Mr. NEWMAN. No, sir.

The VICE CHAIRMAN. It covers—well, your answer is comprehensive; there is no other.

Mr. BUCK. That is all.

Mr. DAVIS. Mr. Chairman, I don't recall that he has stated, but I wish to ask the witness whether his company is affiliated with any other company engaged in the liquor business.

Mr. NEWMAN. We have a subsidiary company, the Wilson Distilling Co.

Mr. DAVIS. Is your company owned or controlled by any company or corporation engaged in the liquor business?

Mr. NEWMAN. No, sir.



Mr. DAVIS. You have the one subsidiary, only?

Mr. NEWMAN. That is correct.

Mr. O'CONNELL. Mr. Newman, I understand from your testimony that you, by virtue of the contract, are the British D. C. L. exclusive agency?

Mr. NEWMAN. We have our contract with the White Horse distilleries.

Mr. O'CONNELL. Which is a subsidiary of the D. C. L.?

Mr. NEWMAN. Correct.

Mr. O'CONNELL. And is there any provision in your contract with White Horse Distilleries relative to the resale price of the liquor you buy?

Mr. NEWMAN. None whatever.

Mr. O'CONNELL. I also understood you to say that some States by contract between your company and the distributors or retailers—

Mr. NEWMAN (interposing). Retailers.

#### RETAIL WHISKY PRICES FIXED

Mr. O'CONNELL. By contract with the retailers, you fix the resale price at which your whiskies may be sold to the public; is that correct?

Mr. NEWMAN. Correct.

Mr. O'CONNELL. I understood you to say in only about six States, is that true?

Mr. NEWMAN. Approximately right.

Mr. O'CONNELL. There are resale price maintenance laws in many more States than that.

Mr. NEWMAN. There may be.

Mr. O'CONNELL. What is the policy of your company with regard to taking advantage of resale price maintenance laws in States where they exist?

Mr. NEWMAN. We follow our own ideas about it. If we think it is a good policy to put it on fair trade we do.

Mr. O'CONNELL. You wouldn't be able to tell me even generally what standards you would apply in determining whether or not a particular State needed that particular type of treatment.

Mr. NEWMAN. No; I couldn't.

Mr. O'CONNELL. In States where you have decided that you should take advantage of a resale price maintenance law, you, I take it, determine on some basis or other what the resale price will be. Could you tell me even in a general way how you would arrive at the price that you fixed?

Mr. NEWMAN. Well, it is according to the mark-up of the retailers in different States.

Mr. O'CONNELL. That is a little bit vague. Could you be more specific?

Mr. NEWMAN. That is as near as I could give it to you.

Mr. O'CONNELL. Do you sell to all distributors at the same price?

Mr. NEWMAN. Yes, sir.

Mr. O'CONNELL. And the amount of the mark-up that you would permit in a State where there was a resale price maintenance law would depend upon the amount of mark-up that you thought was

proper in the State, or the amount that was being charged, or an amount that was being charged by some distributors or retailers. What it would be, I don't quite understand.

Mr. NEWMAN. We would figure the mark-up on what the retailer would ask, if we thought it was fair.

Mr. O'CONNELL. What retailer? I take it if there were no such provision, there would be a variety of prices, a variety of mark-ups.

Mr. NEWMAN. No; those things are pretty much controlled by the retailers, the price.

Mr. O'CONNELL. You mean even in the absence of fair-trade laws?

Mr. NEWMAN. The price mark-up.

Mr. O'CONNELL. How? I don't understand.

Mr. NEWMAN. They figure that they are entitled to, say, 25 or 30 percent mark-up. If we think that is a fair amount, we—

Mr. O'CONNELL (interposing). In the cases where you do take advantage of the laws, you figure you are entitled to a particular mark-up but I don't quite understand the mechanics by which you arrive at the mark-up in a particular State.

Mr. NEWMAN. As I explained to you before, it is considered upon the mark-up the retailer asks for.

The VICE CHAIRMAN. What do you mean by mark-up, profit?

Mr. NEWMAN. The profits of the retailer.

Mr. O'CONNELL. Is it a sort of cooperative activity between your company and the distributors or retailers?

Mr. NEWMAN. Not with the distributor, with the retailer.

Mr. O'CONNELL. Is it a cooperative activity with regards you people and the retailer?

Mr. NEWMAN. No, sir; we figure their mark-up and if we think it is fair—

Mr. O'CONNELL (interposing). Whose mark-up?

Mr. NEWMAN. The retailer's.

Mr. O'CONNELL. But the retailers in a particular State are a large group of people who in the absence of fair trade laws would have a variety of selling prices. I take it that the purpose of having a resale price maintenance agreement is to prevent that situation. When you speak of retailers who in the absence of the situation you create would have a variety of selling prices, I don't quite understand who you mean when you speak of the retailers. You figure the mark-up of the retailers. Whom are you talking about?

Mr. NEWMAN. The retailer is the man who sells to the consumer.

Mr. O'CONNELL. Of course, that is right, that is a class. In the absence of the law, in the absence of your contract, the mark-up would be a variety of different prices.

Mr. NEWMAN. It would be in different States, sure.

Mr. O'CONNELL. In the free States.

Mr. NEWMAN. Sure.

Mr. O'CONNELL. I am still trying to find out what criterion you use or how it is you arrive at the particular mark-up.

Mr. NEWMAN. I can't go any further.

The VICE CHAIRMAN. He wants to know how much profit you are willing to have the retailer make, or how little.

Mr. NEWMAN. Thirty percent.

The VICE CHAIRMAN. Why don't you let him have 35?

Mr. NEWMAN. We don't think he is entitled to it, that is all.

The VICE CHAIRMAN. You are trying to keep him from selling too high or too low?

Mr. NEWMAN. We don't like to see him selling too high and we don't like to see him selling too low.

Mr. O'CONNELL. The price you fix is a minimum price?

Mr. NEWMAN. Now you have it.

The VICE CHAIRMAN. The cheaper he sells it, the more liquor he should sell.

Mr. NEWMAN. That doesn't interest us at all.

The VICE CHAIRMAN. You mean how much liquor you sell doesn't interest you?

Mr. NEWMAN. It doesn't interest us.

The VICE CHAIRMAN. You are doing business as a matter of—what do they say—philanthropy?

Mr. NEWMAN. We don't do it for that either.

The VICE CHAIRMAN. I thought people who made a thing for sale were interested in selling it.

Mr. NEWMAN. No; not particularly. You like to see a lot of it sold.

The VICE CHAIRMAN. You just keep it around the house.

Mr. NEWMAN. We don't want them to do that either.

Mr. BUCK. Judge, you might not know just how important brands are. They know a certain amount is going to sell, apparently.

The VICE CHAIRMAN. There may be something to that.

Mr. BUCK. There is a lot to that. That is why these agency contracts are so valuable and are so valuable in the distribution set-up.

The VICE CHAIRMAN. They don't want the liquor too cheap.

Mr. BUCK. It cuts the profit.

The VICE CHAIRMAN. Because people think they are not getting good liquor if they get it at a reasonable price, maybe.

Mr. DAVIS. You said that you fixed the resale price to the consumer in six States, I believe.

Mr. NEWMAN. Maybe more, I couldn't tell you offhand.

Mr. DAVIS. Do you fix the same price in each of those States?

Mr. NEWMAN. No, sir.

Mr. DAVIS. You don't fix a 30-percent mark-up everywhere, do you?

Mr. NEWMAN. No; we do not.

Mr. DAVIS. How is the profit to the retailer fixed?

Mr. NEWMAN. They ask quite a big mark-up in different States. Some may be a little bit more and some may be a little bit less.

Mr. DAVIS. Just tell us, you know the highest mark-up that you fix, don't you?

Mr. NEWMAN. I would say about 35 percent.

Mr. DAVIS. No more than that?

Mr. NEWMAN. No.

Mr. DAVIS. And what is the lowest you have fixed, where you have fixed the retail price?

Mr. NEWMAN. I would say about 30 percent.

Mr. DAVIS. So the range has been from 30 to 35 percent?

Mr. NEWMAN. That is correct.

Mr. DAVIS. And with further reference to the questions asked by Mr. O'Connell, as to who requests this, you say the retailers. Do you refer to the retailers' association?

Mr. NEWMAN. The different retailers, which are probably brought in through the association.

Mr. DAVIS. Suppose some of the retailers said they wanted one price fixed, and others another price, and others another price, and so forth, how would you determine the price?

Mr. NEWMAN. We would consider it and give them what we thought was a fair mark-up.

Mr. DAVIS. In other words, you would determine what you thought was best for the retailers?

Mr. NEWMAN. That is correct.

Mr. DAVIS. Does the question of the right of the consumer ever enter into consideration?

Mr. NEWMAN. I didn't get that.

Mr. DAVIS. Does the right of the consumer ever enter into the picture?

Mr. NEWMAN. It certainly does.

Mr. DAVIS. You hadn't mentioned him up to date. I just wondered.

Mr. NEWMAN. I wasn't asked.

Mr. DAVIS. Do you know the selling price of your product from the standpoint of mark-up in the States where you haven't fixed it?

Mr. NEWMAN. On what particular brands? Scotch is \$3.39 in New York.

Mr. DAVIS. Three thirty-nine a fifth?

Mr. NEWMAN. Yes.

Mr. DAVIS. Does your White Horse Scotch whisky sell for approximately \$3.39 in all the States?

Mr. NEWMAN. I wouldn't say in all of them, no, it is according to the State taxes.

Mr. DAVIS. What is the least you know of it selling for in a State?

Mr. NEWMAN. I would say about \$2.99.

Mr. DAVIS. What States have dropped to that?

Mr. NEWMAN. Just offhand I couldn't remember.

Mr. BUCK. Most likely State stores?

Mr. NEWMAN. It would be, yes.

Mr. BUCK. A case where the retailer doesn't exist as such.

Mr. NEWMAN. Very likely.

Mr. BERGE. Suppose that a retailer or a group of retailers in a community wanted to sell at 20 percent profit.

Mr. NEWMAN. At what?

Mr. BERGE. At a 20 percent profit—they thought they could sell more of it at 20 percent profit, they thought they could make enough money to justify them in selling it, staying in business, that they would do nicely on that. You wouldn't feel that they could be permitted to sell at 20 percent?

Mr. NEWMAN. There aren't any such retailers.

Mr. BERGE. You mentioned a moment ago that White Horse was sold at, the lowest figure you thought was \$2.99, but there undoubtedly are retailers in the States and in the District of Columbia where the resale price policy doesn't obtain, who would sell it for \$2.50, or \$2.49.

Mr. NEWMAN. Very likely.

Mr. BERGE. They apparently feel they are justified in doing that, and I just wondered on what theory you felt that the wholesaler

could better determine what was good for the retailers than the retailers themselves.

Mr. NEWMAN. As I explained before, that policy is fixed by the retailer.

Mr. BERGE. I don't think that answers the question, because I am supposing that there are a group of retailers who differ with what you say is the prevailing sentiment. I take it that the retailers aren't agreed on that policy, that some would prefer the 30 percent profit, some would prefer a larger volume of business at the lower percentage, as is certainly demonstrated by the fact that where you don't have those laws there is a variety of prices.

I was wondering in the State of New York whether you would feel a large concern like Macy's were unable to protect themselves, and their judgment was necessarily bad as to what they could profitably sell your product to the public for.

The thing that I am questioning is your promise, your assumption, that these questions of price could be better determined by the wholesaler of the manufacturer than by the person who directly deals with the public, and I have been interested in that all through the hearings and I haven't found anyone that has what seems to be a very satisfactory answer.

Mr. NEWMAN. As I explained before, the mark-up is usually fixed by the percentage of profit that the retailer asks for.

Mr. BERGE. Of course, if a particular retailer wants to sell at the 30 percent profit, I don't see why he has to ask you for it. I should suppose that in a free market those retailers who deem 30 percent profit or 35 percent profit to be proper, could ask it, and the others might prefer to take less and sell more of their product.

Mr. NEWMAN. You will find that the majority of them would prefer to sell less and get the mark-up.

Dr. LUBIN. Mr. Newman, apropos of that same point, when did you put in your fixed price in the State of New York?

Mr. NEWMAN. I couldn't tell you just exactly.

Dr. LUBIN. But it was some time after repeal, was it not?

Mr. NEWMAN. It must have been.

Dr. LUBIN. Do you know what was charged for your product in the State of New York before you fixed the price?

Mr. NEWMAN. It wasn't very much less than what they charge today. I couldn't exactly tell you.

Dr. LUBIN. Was it uniform?

Mr. NEWMAN. Fairly.

Dr. LUBIN. Were there any retailers that you know of that had a smaller mark-up than you fixed under the law?

Mr. NEWMAN. Yes.

Dr. LUBIN. In other words, there are retailers who apparently do feel that they would be satisfied with the smaller mark-up than you fix.

Mr. NEWMAN. That is correct.

Dr. LUBIN. In other words, the retailers then do not determine what the mark-up shall be.

Mr. NEWMAN. They do in many instances and if they don't follow it, that is all there is to it.

Dr. LUBIN. You say that the mark-up that you fix is determined by the retailers and then in the other sentence you say that the retailers were charged different prices.

Mr. NEWMAN. Well, they don't always follow the mark-up. In many instances they cut below it.

Mr. BERGE. Doesn't it come down to this? Some of them want it and some of them don't but your policy requires them all to take it.

Mr. NEWMAN. That is the idea.

Mr. BERGE. In fixing your prices on particular products, do you take into account the price that your competitors have fixed on products of similar quality; in other words, if a standard brand of Scotch of approximately the same quality is fixed by a competitor at three thirty, would you not take that into account in fixing your price?

Mr. NEWMAN. We may and we may not.

Mr. BERGE. Wouldn't there be a strong tendency to do that?

Mr. NEWMAN. There may be; yes.

Mr. BERGE. Well, isn't there in practice? Why would you sell, if you believe in these uniform policies, a standard brand at three ten if your competitor with a similar brand is getting three thirty?

Mr. NEWMAN. Well, you will find in some of the States that our brand is a little bit higher than the others and some a little bit lower.

Mr. BERGE. Well, I want to get in mind what factors you take into account.

Mr. NEWMAN. We would consider that.

Mr. BUCK. You take it that is your province to determine.

Mr. NEWMAN. Yes; surely, I do.

Mr. BERGE. Wouldn't it work both ways, where you would like to fix your price at three thirty, you might fix it at either three forty or three twenty-five according to what your competitor fixed his price?

Mr. NEWMAN. In some instances we would consider it and in others we wouldn't.

The VICE CHAIRMAN. That is the point right there. When would you consider it and when would you not?

Mr. NEWMAN. Well, that is the question.

The VICE CHAIRMAN. You are the businessmen. You do it and why do you do it? Why do you do it some times and why at other times do you not do it? Why do you take into consideration one time what your competitor is selling for and the next time ignore it?

Mr. NEWMAN. It is all according to circumstances.

The VICE CHAIRMAN. We want it. We want to know what those circumstances are, and you know and we don't. Some times you take into consideration your competitor's prices, you say, and some times you do not, and we want to know why you do it at one time and not at another.

Mr. NEWMAN. We figure it isn't necessary to do it at all times.

The VICE CHAIRMAN. What makes it unnecessary?

Mr. NEWMAN. Well, we feel we can in some instances—

The VICE CHAIRMAN (interposing). You are not answering my question.

Mr. NEWMAN. That is the only way I can answer it.

The VICE CHAIRMAN. You are a businessman and you go into a State and you find there prices of liquor, certain prices, and you

may consider them and you may not. Now, why do you consider them or why do you not?

Mr. NEWMAN. Well, I would say this: That, as I said before, in some instances I think it is necessary and in others I don't.

The VICE CHAIRMAN. Why do you think it is necessary ever to consider your competitors price?

Mr. NEWMAN. With the master prices?

The VICE CHAIRMAN. Yes.

Mr. NEWMAN. Well, in that instance I would say where the market is on an average and the price would be equal all through.

The VICE CHAIRMAN. You used some remarks you may understand but I don't. You say you go in and find the prices about equal, and then some other things. Let me see if I can help you. You are now at the point where we are interested.

Mr. NEWMAN. I understand that.

The VICE CHAIRMAN. This is something you know and we don't. In one State you are influenced by competitive prices and in another State you are not. Do you mean that in some States you go in and you find the competitive price about what you would sell for anyhow?

Mr. NEWMAN. Yes.

The VICE CHAIRMAN. I am helping you out, am I not?

Mr. NEWMAN. A little bit.

The VICE CHAIRMAN. The next place you find them not what you think they ought to be, and there you fix the price.

Mr. NEWMAN. That is the idea.

Mr. BALLINGER. Mr. Newman, you think the producers of liquor should compete on price in the manufacture of liquor.

Mr. NEWMAN. What do you mean?

Mr. BALLINGER. There must be price competition between manufacturers of liquor.

Mr. NEWMAN. Absolutely.

Mr. BALLINGER. Then why don't you think there should be price competition between the distributors? Why should you sort of stop price competition on that front, and tolerate it on the other? What is the special advantage of that?

Mr. NEWMAN. You are talking now to the consumer?

Mr. BALLINGER. I mean you are perfectly willing that the manufacturers of liquor should compete on price, but if you believe in resale price maintenance you don't want your distributors to compete on price. I want to know what is the special advantage of that. If competition is good here, why isn't it good there?

Mr. NEWMAN. Well, I would say that in selling to the consumer that the retailer requires a certain mark-up in order to make his profit.

Mr. BALLINGER. Then why wouldn't you say it would be a good thing if the manufacturers would get together and agree on what their profit should be?

Mr. NEWMAN. It couldn't be done.

Mr. BALLINGER. It could be done much more easily than the other way. You would have only four people to get together.

Mr. NEWMAN. It couldn't be done. On account of the extreme competition that would be impossible.

Mr. BALLINGER. I am asking you if it could be done.

Mr. NEWMAN. I don't see how it could.

Mr. BALLINGER. If it could be done, do you think it would be a good thing for the manufactures to fix prices?

Mr. NEWMAN. I don't think so.

Mr. BALLINGER. But you think it is a good thing for the manufacturer to prevent the distributor from competing, saying "You can't compete on price any longer."

Mr. NEWMAN. Yes.

Mr. BALLINGER. There is some inconsistency, then, in what you are saying.

Mr. BUCK. What you know about it is that this system gives you a good profit and insures the payment of your accounts properly, and so forth. That is what your interest is. After all, your interest is in good, solid profit straight through.

Mr. NEWMAN. Yes.

Mr. DAVIS. I understood you to say your selling price on White Horse is uniform to all wholesalers.

Mr. NEWMAN. Yes.

Mr. DAVIS. What is that current price, the present price?

Mr. NEWMAN. To the wholesaler?

Mr. DAVIS. Yes, sir.

Mr. NEWMAN. \$21.50.

Mr. DAVIS. \$21.50 a case of 12 fifths?

Mr. NEWMAN. That is correct.

Mr. BUCK. What is your resale price fixed on that in New York?

Mr. NEWMAN. What do you mean?

Mr. BUCK. What is the retailer's price to the consumer on that same whisky in New York?

Mr. NEWMAN. \$3.39.

Mr. BUCK. A bottle?

Mr. NEWMAN. Yes. That is exclusive of the State tax. Of course, that is to the wholesaler.

Mr. BUCK. That gives the retailer a profit of \$1.59 on a fifth of whisky?

Mr. NEWMAN. Don't forget he has \$1 a gallon tax.

Mr. BUCK. That gives him \$1.34 profit on one bottle of whisky.

That is all.

The VICE CHAIRMAN. The Chair is advised that counsel for Park & Tilford have tendered their contracts for the record, to be admitted.

(The Park & Tilford agency contracts were marked "Exhibits Nos. 423 and 424" and are included in the appendix on pp. 2709 and 2711.)

Mr. BUCK. Are there any other contracts to come in at this time?

Mr. NEWMAN. I want to correct that. That is \$26.10.

Mr. BUCK. Mr. Newman, did the price change since you left here?

Mr. NEWMAN. No; that was the price.

Mr. BUCK. Is Mr. Williams here, of Canada Dry?

The VICE CHAIRMAN. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, in the testimony you are about to give, so help you God?

Mr. WILLIAMS. I do.



**TESTIMONY OF WILLIAM J. WILLIAMS, SECRETARY AND GENERAL COUNSEL, CANADA DRY GINGER ALE, INC., NEW YORK, N. Y.**

Mr. BUCK. Will you state your name and business connections?

Mr. WILLIAMS. William-J. Williams, secretary and general counsel, Canada Dry Ginger Ale.

Mr. BUCK. I didn't know you were a lawyer or I wouldn't have summoned you. [Laughter.]

Do you know about the contractual arrangements between Canada Dry and Johnnie Walker?

Mr. WILLIAMS. Yes, sir.

Mr. BUCK. Johnnie Walker is a Scotch whisky?

Mr. WILLIAMS. Johnnie Walker is a blended Scotch whisky.

Mr. BUCK. It is all blended, isn't it?

Mr. WILLIAMS. That is what you tell us.

Mr. BUCK. Who owns the Johnnie Walker company abroad?

Mr. WILLIAMS. On information, I believe the D. C. L. own the Johnnie Walker Company.

Mr. BUCK. The same aggregation we have been discussing here?

Mr. WILLIAMS. I think so.

Mr. BUCK. You have seen the contract that we offered for the record?<sup>1</sup>

Mr. WILLIAMS. I didn't examine it but I would like to, and I think in all probability it is about the same. I would like to have an opportunity to glance through it after the examination.

Mr. BUCK. Is Johnnie Walker a popular Scotch brand in the United States?

Mr. WILLIAMS. I think so.

Mr. BUCK. What are its gross sales?

Mr. WILLIAMS. In dollars?

Mr. BUCK. In dollars.

Mr. WILLIAMS. I don't know exactly, but I will guess between four and five million dollars a year.

Mr. BUCK. Not as large as Haig & Haig?

Mr. WILLIAMS. I don't know what the Haig & Haig sales are. Johnnie Walker gross sales may approximate \$6,000,000.

**SOLE AGENCY CONTRACT FOR JOHNNIE WALKER AND HAIG & HAIG WHISKIES**

Mr. BUCK. And Canada Dry Ginger Ale Corporation holds the sole distributor's contract for that brand in the United States?

Mr. WILLIAMS. That is right.

Mr. BUCK. It can't be purchased from anyone else?

Mr. WILLIAMS. That is substantially correct. Under certain conditions Johnnie Walker can be purchased direct from the parent company, but those conditions are not very important.

Mr. BUCK. In the event I should place an order with Johnnie Walker abroad for a case and they were kind enough to send it to me, would you get a profit on it under your contract?

Mr. WILLIAMS. We would get an agent's profit.

<sup>1</sup> Referring to "Exhibit No. 421," appendix, p. 2703.

Mr. BUCK. Whether you sold it to me or not?

Mr. WILLIAMS. That is right.

Mr. BUCK. Does D. C. L. contribute to the advertising of the brand in this country?

Mr. WILLIAMS. No; John Walker & Sons, Ltd., do.

Mr. BUCK. My mind doesn't break down to fine parts. It is all D. C. L. with me.

Mr. WILLIAMS. We don't have any relationship with the D. C. L. company whatsoever.

Mr. BUCK. All right, I will take your view of it. Johnnie Walker contributes?

Mr. WILLIAMS. Yes.

Mr. BUCK. How much do they contribute each year?

Mr. WILLIAMS. I think it fluctuates from year to year, but the current appropriation is around thirty or thirty-five thousand pounds.

Mr. BUCK. Thirty or thirty-five thousand pounds. Are you required to make a contribution to that under your agreement?

Mr. WILLIAMS. Not specifically in our existing agreement.

Mr. BUCK. Do you, as a matter of fact?

Mr. WILLIAMS. Yes.

Mr. BUCK. How much do you contribute toward it?

Mr. WILLIAMS. On information from our accounting department, I believe it is around \$1 a case.

Mr. BUCK. The same as Mr. Newman testified to?

Mr. WILLIAMS. I believe so.

Mr. BUCK. For every case you sell you must spend that dollar?

Mr. WILLIAMS. That is right.

Mr. BUCK. That is passed on to the consumer, of course?

Mr. WILLIAMS. I suppose it is a component part of the price.

Mr. BUCK. In turn, you distribute, throughout the United States, Johnnie Walker whisky?

Mr. WILLIAMS. That is correct.

Mr. BUCK. And you distribute it under resale price-maintenance agreements?

Mr. WILLIAMS. In some States.

Mr. BUCK. In most open States?

Mr. WILLIAMS. No. I am guessing now. There are, I should say, about six States in which we have fair-trade contracts.

The VICE CHAIRMAN. Can you name those States?

Mr. WILLIAMS. California; Arizona; New York State, of course; New Jersey and Illinois; and either Wisconsin or Minnesota, I don't know which. I think it is Wisconsin.

The VICE CHAIRMAN. I wish you would ask Mr. Newman to remain. I want to ask him a question when you get through with the witness.

Mr. BUCK. Mr. Newman, will you remain in the room after we finish with this witness, please, sir?

Mr. BUCK. I hand you a contract, together with a letter that accompanies it, referring to a court decision in the State of New York, and ask you if that is typical of your resale price maintenance contracts on that brand of whisky?

Mr. WILLIAMS. Yes.

Mr. BUCK. And you send this letter along with it?

Mr. WILLIAMS. That is correct.

Mr. BUCK. What is the purpose in sending the letter?

Mr. WILLIAMS. Well, in the present contract there is a provision which was validated by a subsequent decision of the New York Court of Appeals, and as a consequence we amended the original contract to conform with the decision.

Mr. BUCK. You feel that it had a little coercive value?

Mr. WILLIAMS. No; I don't think so.

Mr. BUCK. To send the court decision along with the contract.

Mr. WILLIAMS. I didn't send the court decision. I just referred to it in a memorandum.

Mr. BUCK. I will ask that the contract and other attached papers be filed.

The VICE CHAIRMAN. They will be filed.

(The documents referred to were marked "Exhibit No. 425" and are included in the appendix on p. 2714.)

#### QUESTION OF ENFORCING PRICE MAINTENANCE BY LARGE RETAILER

Mr. BUCK. Mr. Williams, just as a matter of developing this subject, do you sell to Macy & Co. in New York?

Mr. WILLIAMS. Yes; I believe so.

Mr. BUCK. Do you require Macy to charge a price more than they wish to charge on your whisky?

Mr. WILLIAMS. We request that they maintain our suggested resale price.

Mr. BUCK. Notwithstanding the fact that they wish to sell your whisky at a less price.

Mr. WILLIAMS. They have been pretty good; they have followed our suggestion quite well. At times they have cut a little.

Mr. BERGE. You call it a suggestion. Isn't it a definite obligation?

Mr. WILLIAMS. Of course, if you want to construe it strictly. Macy has not signed a fair-trade contract. Consequently it isn't a contract price; it is a suggested price.

Mr. DAVIS. If they didn't observe your fixed resale price you would quit selling to them, wouldn't you?

Mr. WILLIAMS. We would do that or we might bring an action to enjoin them from cutting the price.

Mr. DAVIS. What is your price on Johnnie Walker to the wholesalers in New York at the present time?

Mr. WILLIAMS. We have various prices on various sizes under various conditions. We have "in bond," "out of bond," all sizes. Take the fifth. Is that satisfactory?

Mr. BUCK. Take the fifth, "out of bond," for distribution.

Mr. WILLIAMS. About \$25.34 a case.

Mr. DAVIS. What is your fixed resale price of that in New York?

Mr. WILLIAMS. Three dollars and thirty-nine cents.

Mr. BUCK. A fifth?

Mr. WILLIAMS. A fifth; we are talking about fifths.

Mr. DAVIS. Do you charge a little more than the White Horse wholesale?

Mr. WILLIAMS. I don't know what White Horse charges except from what I heard Mr. Newman say.

Mr. DAVIS. But the resale price to the consumer is the same?

Mr. WILLIAMS. Our price is three thirty-nine.

Mr. DAVIS. Is the price that you have designated uniform to wholesalers throughout the United States?

Mr. WILLIAMS. Except for the difference which is occasioned by freight or costs it is practically uniform.

Mr. DAVIS. You sell f. o. b. New York, don't you?

Mr. WILLIAMS. That is right, f. o. b. our warehouse in New York. We also sell f. o. b. warehouse in Chicago, and f. o. b. warehouse in San Francisco.

Mr. DAVIS. And the only difference you make is what the transportation and warehouse charges are in—

Mr. WILLIAMS. I think that is correct.

Mr. BERGE. You said a moment ago that in your dealing with Macy's you did not have a definite binding contract, but that they followed suggested prices. Is that generally your policy in New York State? I thought that you entered into definite contract agreements with most of your—

Mr. WILLIAMS (interposing). We do. We have in existence fair-trade contracts, but not everybody, for varying reasons, will sign the contracts.

Mr. BERGE. Are there many people that you let off as lightly as you do Macy's?

Mr. WILLIAMS. As a matter of fact there are many dealers in New York State who have not signed contracts. If you were to sign up the retail dealers throughout the entire State of New York, you would have to tie up thousands of retail dealers and that is practically impossible. That is probably one of the current weaknesses of the fair-trade acts.

Mr. BERGE. In other words, you tie some of them up and you don't tie all of them up.

Mr. WILLIAMS. We sent contracts to everybody. I have forgotten how many thousand we sent out, but we didn't discriminate between one dealer and another. We sent them to Macy's and to everybody.

Mr. BERGE. If the little fellow didn't want to sign the contract, would you do business with him?

Mr. WILLIAMS. If he maintained price, I believe we would.

Mr. BERGE. Then those who don't sign the contracts are cautioned to observe the suggested price. If they don't observe the suggested price, you stop doing business with them.

Mr. WILLIAMS. Not necessarily. As you know, these fair-trade acts have a provision in them that nonsigning retailers who are notified of a price maintenance program are bound as well as those people who do sign.

Mr. BERGE. I am aware, generally, of what the laws provide, but I was wondering how you enforced your rights under the laws, whether you enforced them equally with respect to all retailers or whether you would wink at violations in certain cases and insist on strict observance in others.

Mr. WILLIAMS. No; we do not discriminate. As a matter of fact, that, as I indicated before, is one of the difficulties with the fair-trade acts in their present status, and you have many court decisions which have indicated that fact both here and in—

Mr. BERGE (interposing). Would you want to state, then, that it is your uniform policy to cease business relations with price cutters in States where you have taken advantage of fair-trade laws?

Mr. WILLIAMS. No; I stated that that was not our uniform practice, or wasn't—

Mr. BERGE (interposing). Then you don't treat all retail dealers alike?

Mr. WILLIAMS. The conclusion is not a fair one to draw. You are trying to prove that there is a discrimination which we don't—

Mr. BERGE (interposing). I am not trying to prove; I am trying to—

Mr. WILLIAMS (interposing). It is a matter of business judgment. There are some people who cut prices who are notorious for it.

Mr. BERGE. Macy is notorious for it.

Mr. WILLIAMS. That is not right. I don't think Macy's is.

Mr. BERGE. According to fair trade laws, they were generally known as a large outfit who cut prices pretty generally. I suppose, though, it could be a rather serious loss of business if any of the national brands refused to do business with them, but what would be your policy with respect to a smaller dealer who for one reason or another didn't observe your suggested price? Would you uniformly cut them or would you make exceptions? If you would make exceptions to permit violations in some cases, what would determine in which cases you would make exceptions and permit price cutting?

Mr. WILLIAMS. As a matter of actual practice, it isn't as uniform, at least as classifiable, as you would like to make it. Price wars break out sporadically. The customary procedure is to approach the dealer and request him to maintain the resale price. Usually, if he does everybody else does, and in most cases that is the way it works out. Some of them may not, and on the basis of sound judgment you pick out half a dozen people and sue them.

The VICE CHAIRMAN. You would do a whole lot if you would pick out a big profit like Macy's and go right after them. That would be some warning. How big do they have to get to permit you to sort of let them drift along?

Mr. WILLIAMS. We don't bring suits against these retailers on the basis of size.

The VICE CHAIRMAN. Taking a big concern like Macy's, if it breaks over doesn't that put the little competitor at a very great disadvantage?

Mr. WILLIAMS. Well, I don't know, frankly. I think probably in the immediate vicinity, yes; but take New York City with five boroughs, I don't know whether people from Brooklyn would go over to Macy's to buy Scotch whisky for 5 cents a bottle less. The carefare would be in excess of that. I don't know. As a matter of fact, if I may digress a minute, it seems to me that you are trying to ask me a question with respect to fair trade acts which is not answerable. It is one which is the subject of study by Harvard University. There have been several books written on the subject. Weigel has written a book on fair trade acts.

The VICE CHAIRMAN. Yes; I know; a great many books are being written that nobody ought to read, I expect. But the point is, looking at it from the standpoint of monopolizing business, if you forced the little fellow to observe these resale prices and then you let a big concern like Macy ignore those prices that you compelled the smaller man to observe, how can he stay in competition?

Mr. WILLIAMS. I think that is a misstatement.

The VICE CHAIRMAN. Will you correctly state it?

Mr. WILLIAMS. I don't think Macy is the only large dealer in whisky. I think there are other large dealers in whisky and consequently it is not a choice between Macy and Mr. Jones. There are other competitors in New York that probably sell as much whisky as Macy & Co. We do not sue on the basis of size.

The VICE CHAIRMAN. Do they observe your sales price?

Mr. WILLIAMS. In a good many cases they do; yes.

The VICE CHAIRMAN. In other cases they don't?

Mr. WILLIAMS. We go after them, regardless of their size. We don't choose a little retailer; as a matter of fact, I don't think that would be effective. The value to us would be less if we picked a man who was small and was not known.

The VICE CHAIRMAN. Well, do your small retailers to a considerable degree refuse to be governed by your resale schedule?

Mr. WILLIAMS. No; as a matter of fact, I think the desire for price maintenance emanates from the small retailer, and as a consequence it is to his own advantage to maintain the margin of profit.

The VICE CHAIRMAN. With the hope, I suppose, that the people he is buying from will insist that the big man do it, too.

Mr. WILLIAMS. We try to.

The VICE CHAIRMAN. Couldn't you be rather effective if you just didn't sell to R. H. Macy & Co., if they didn't observe it? I don't suggest it is good policy; I am just trying to get at it.

Mr. WILLIAMS. Again I state that R. H. Macy & Co. are not the only large——

The VICE CHAIRMAN (interposing). They are the only ones we are asking about right now.

Mr. WILLIAMS. They are one of them.

The VICE CHAIRMAN. Which others violate?

Mr. WILLIAMS. I am not in the distribution end of the business, but I know that there are a number of large department stores in New York and there are a number of large retail stores who do a large whisky business.

The VICE CHAIRMAN. And they do not observe the resale price?

Mr. WILLIAMS. They do in most cases.

The VICE CHAIRMAN. How do they get into this picture we are talking about?

Mr. WILLIAMS. Macy's do observe it. If you went to Macy's now and ordered a bottle of Johnnie Walker Red Label you would pay \$3.39 plus 3 percent retail sales tax.

The VICE CHAIRMAN. They are observing it?

Mr. WILLIAMS. Yes, sir.

Mr. BUCK. The point is, if they don't observe it you won't let them have the whisky?

Mr. WILLIAMS. Well, we adopt these other methods first. We have found Macy's rather cooperative, to be frank.

Mr. BUCK. The point is, if you undertake to sell your whisky on a resale price maintenance basis in New York you do it clear through?

Mr. WILLIAMS. Yes.

Mr. BUCK. Therefore, if one does not observe the price, whether he be under contract or otherwise, you stop letting him have the whisky?

Mr. WILLIAMS. Eventually, if he doesn't adjust his price.

Mr. BUCK. Yes; of course.

Mr. WILLIAMS. Of course, there are a lot of these intermediate steps that we go through.

Mr. BUCK. So long as we are talking about theory—and I am not one who indulges in very much of that—is it your opinion that the resale price maintenance insures stability of the retailer?

Mr. WILLIAMS. It is a step forward, I believe. I think it is something which the retailers have wanted for many years, and now they have it. I don't know how successful it is going to be. It is in process of development.

Mr. BUCK. In other words, you think except for the resale price maintenance some retailers who are now in business may be out of business?

Mr. WILLIAMS. That is quite likely.

Mr. BUCK. Do you think it is fair and equitable to the consumer that he support more retailers than might be necessary in a trade?

Mr. WILLIAMS. I think it depends upon your economic viewpoint. On one occasion we had the N. R. A., which was for the continuation of everybody in business, and price maintenance. That is one economic philosophy. On the other hand, you have the true competitive system, which is another.

Mr. BUCK. I want to correct you on the N. R. A. I don't believe that was the purpose.

Mr. WILLIAMS. I mean my experiences with it, which were rather limited, lead me to believe that price maintenance programs were encouraged.

Mr. BUCK. That is all that I have.

Mr. BERGE. I just want to pursue one point just a little further. I am still not quite clear as to the uniformity of your policy with respect to violators. I take it that you don't enforce the agreements as to all of them, but I am not clear as to whether you don't simply because it is impossible to do so, because there are so many of them, or because you think there are some instances where it is not necessary to enforce, or good practice would permit you to frown on violations.

Mr. WILLIAMS. Let me preface my remarks by stating that the courts in New York and the courts in Illinois have both stated, on occasion, that the condition of price maintenance in some cases was chaotic: that it would be impossible for a producer or an owner to sue everybody that cut price, particularly at a time when it had become promiscuous.

As to our particular procedure, we approach it very practically. We get complaints from retailers who state that John Jones is cutting price; they feel it because he is in their immediate section; they say, "Well, why don't you have him maintain price?"

We go over to him and say, "John Jones, why don't you maintain the suggested price as you have agreed to in your contract?"

John Jones says, "All right," or he may say, "No." If he says "no," the probability is that we bring an injunction suit and make him raise his price.

Mr. BERGE. Do you always bring injunction suits?

Mr. WILLIAMS. No; again it is a matter of—

Mr. BERGE (interposing). Would you ever quit doing business with him because of that?

Mr. WILLIAMS. We haven't had that situation to date, so I can't answer it.

Mr. BERGE. I don't care to press it further but just to make this comment and see what your reaction to it is. Other witnesses have testified that the whole purpose of this was to protect the retailer, that the philosophy had been adopted that it was in the retailer's interest to have the distributor or the manufacturer look after him.

Accepting that for the moment, I don't see how it can work to the retailer's advantage unless you maintain a vigorous policy with respect to all violations. I suppose that we either have to consistently pursue one philosophy or the other, and if this is good for the retailer, if you are going to do your duty to the retailer, you have to pretty vigorously enforce it as against Macy's and the big retailers and also the little ones, and if there is any discrimination in enforcement it seems to me that it fails in what you yourselves state to be the purpose of it.

Mr. WILLIAMS. I would like to make this preliminary statement: I think that you have not fully stated the purpose. Most of these acts have a declared purpose of protecting the trade-mark. At least, that is the basis of the acts, to protect the marks, and that is the basis on which the Supreme Court passed on the two cases that it heard. That is the fundamental purpose of the act; it is not exclusively the protection of the profit margin of the retailer.

Secondly, I don't think that we discriminate. You imply in your statement that we discriminate between one dealer and another, which we do not.

Thirdly, as I stated originally, the fair-trade acts, in my opinion are in the evolutionary stage and there are various forms. In Wisconsin, I believe, an administrative board regulates the extent to which you can fix prices; in New Jersey you have a situation where you file your price with the liquor-control commission, which enforces that price; in Rhode Island and Arizona, under the Liquor Act, or by regulation of the commissioners, they have definitely fixed the mark-up to the retailer. I think it is, respectively, 40 and 50 percent in Rhode Island and Arizona. So you see that the exact purpose and the philosophy behind the fair-trade acts is not too clear. They are in the state of development, in my opinion.

#### METHOD OF DETERMINING RETAIL LIQUOR PRICES

Mr. BUCK. At this time I would like to offer for the record a price list of this company for the New York area as of November 1, 1938, and ask that it be submitted for the record.

(The price list referred to was marked "Exhibit No. 426" and is included in the appendix on p. 2716.)

Mr. O'CONNELL. A little while ago I understood you to say that your price to distributors was about \$25.34 a case.



MR. WILLIAMS. I think that is correct.

MR. O'CONNELL. F. o. b. your factory, or does that include freight?

MR. WILLIAMS. That is f. o. b. our warehouse in New York.

MR. O'CONNELL. Would that be the price that you would sell f. o. b. New York to all distributors generally at any given moment?

MR. WILLIAMS. I believe that is correct.

MR. O'CONNELL. It might vary generally, but at any given moment it would be the same price to all distributors.

MR. WILLIAMS. At the date which this was prepared, which was the other day, they were the prices.

MR. O'CONNELL. And the resale price, you maintain, in New York is \$3.39 a quart?

MR. WILLIAMS. That is correct; a fifth.

MR. O'CONNELL. Could you shed any light on the way your company arrives at that \$3.39 resale price? That is the same line of questions we were pursuing with Mr. Newman. I thought possibly you could explain a little more clearly how you arrived at such a price.

MR. WILLIAMS. There are so many factors that enter into a price, it seems to me. The retailer figures that he must have a certain return on his capital invested. In New York State there are rather substantial license fees. The wholesaler pays \$4,000.

MR. O'CONNELL. That wouldn't be something that you would consider in determining the resale price. You wouldn't consider that \$4,000. I should assume that if you would give any consideration to costs it would be retailers' costs. I am talking about the retailer's price.

MR. WILLIAMS. The retailer pays a tax of \$800 or \$1,200.

MR. O'CONNELL. The \$4,000 is not an item.

MR. WILLIAMS. No; but either eight or twelve hundred dollars, depending upon his class is. I think he is also influenced by the profit margin on other goods.

MR. O'CONNELL. I am more concerned with what you are influenced by, because as I understand, it is your company that makes the resale price of three thirty-nine.

MR. WILLIAMS. We don't take an arbitrary position on it.

MR. O'CONNELL. Obviously, it is an arbitrary position, in the sense that you fix the price at three thirty-nine. I am only interested in how you arrive at the three thirty-nine.

MR. WILLIAMS. We figure what a fair margin of profit is for the average retail dealer.

MR. O'CONNELL. Do you make a study of retailer's costs and distribution?

MR. WILLIAMS. That usually comes out in the course of discussion with the retailers.

MR. O'CONNELL. Is the price fixed with a view to keeping all of the retailers in the field?

MR. WILLIAMS. I don't think we approach it from that point of view.

MR. O'CONNELL. I would like to find out, if I could, from what point of view you do approach it. You must have some point of view of determining the three thirty-nine.

MR. WILLIAMS. We have competitive conditions to contend with; we know what our competitive products are sold for; consequently, we know that if we are out of line with those we are out of business.

Mr. O'CONNELL. The resale price of White Horse is also three thirty-nine?

Mr. WILLIAMS. I understand it is.

Mr. O'CONNELL. Is that also the resale price, so far as you know, of some of the other standard makes of Scotch whisky?

Mr. WILLIAMS. I only purchase Johnnie Walker, but I think that is correct.

Mr. O'CONNELL. I mean the resale price of other Scotches is the same.

Mr. WILLIAMS. Generally speaking, I think they are about the same.

Mr. O'CONNELL. Aren't they all three thirty-nine?

Mr. WILLIAMS. I don't know of my own knowledge.

Mr. O'CONNELL. I understood you to say you did consider the other prices in determining the resale price so you probably know the price.

Mr. WILLIAMS. I am not speaking for the sales manager, but in the course of preparing these contracts I know we discussed all these items.

Mr. O'CONNELL. I am still a little vague in my mind.

Mr. WILLIAMS. What you are trying to find is a formula which I don't think exists.

Mr. O'CONNELL. Not necessarily a formula, but I would assume that there must be some standards, whether they be arbitrary or not, by which you arrive at the differential between your \$25 a case and a resale price of \$3.39 a quart.

Mr. BUCK. As I understand Mr. O'Connell, in the absence of some formula or some standard, then it must necessarily be an arbitrary price.

Mr. WILLIAMS. I think probably we figure a fair margin of profit at 25 or 30 percent, maybe 35 percent on the retailer's price.

Mr. O'CONNELL. For what retailer, for all retailers? We are speaking about a margin of profit for a retailer.

Mr. WILLIAMS. That is right.

Mr. O'CONNELL. I take it retailers' costs probably differ.

Mr. WILLIAMS. That is true.

Mr. O'CONNELL. And you would draw a fair margin of profit of 25 or 30 or 35 percent for what retailer, all retailers, the least efficient or the most efficient?

Mr. WILLIAMS. I don't think we can take into consideration the efficiency of the particular retailer. We are in business to fix a price which is available to all. If we took into consideration the particular retailer to whom the stuff was sold we would spend most of our time gathering statistics.

Mr. O'CONNELL. I understood you to say you did take into consideration retail costs.

Mr. WILLIAMS. In a general way, yes. There are so many factors in the situation that you can't generalize.

Mr. O'CONNELL. I think we can generalize all right, but apparently we can't be very specific.

Mr. WILLIAMS. For instance, the retailer likes stability of price. If your product is thrown around the market, you don't have a stable price and many retailers are not inclined to buy it.

Mr. O'CONNELL. I wasn't so much concerned with the stability in price as I was how you arrived at the particular price.

Mr. WILLIAMS. I know, I know.

Mr. O'CONNELL. How you arrive at the margin.

Mr. WILLIAMS. That is right.

Mr. O'CONNELL. We can't quite get together on that.

Mr. WILLIAMS. I don't think there is an exact formula.

Mr. DAVIS. You made several references to court decisions in relation to the fair-trade laws. Is it not a fact that in the *Dearborn case* the Supreme Court proceeded on the theory that the fair-trade laws were designed primarily for the protection of the manufacturers, so as to protect the goodwill in price setting, and they were not designed so much for the protection of the retailers.

Mr. WILLIAMS. I think I indicated that fact when the other gentleman asked that. I think that is correct.

Dr. LUBIN. Mr. Williams, I understood you to say that your wholesale price is \$24.35.

Mr. WILLIAMS. Thirty-four cents.

Dr. LUBIN. Which is approximately \$2.03 a fifth roughly.

Mr. WILLIAMS. What was that?

Dr. LUBIN. Roughly about \$2. Your retail mark-up price is \$3.39 which mean there is a mark-up of \$1.36. It might be 2 or 3 cents off. I was very much interested in what you said about the necessity of stability of price, particularly in not wanting the retailer to have the price go up and down.

Mr. WILLIAMS. I said that is one factor.

Dr. LUBIN. Do you believe, in view of your experience in the industry that if you fix the price, let's say, of \$3, which meant that the mark-up became a dollar, and the retail price was set at that, that you would sell more or less of your brand?

Mr. WILLIAMS. I frankly don't know; I don't know what effect price has on Scotch. I am not in the sales department, but I imagine that the lower the price the larger the sales. It is a general assumption.

#### CANADA DRY'S RETAIL LIQUOR PRICE MAINTENANCE POLICY

Dr. LUBIN. In view of the fact that you get your wholesale price anyway, what advantage is there to you in seeing to it that the retailer gets \$3.39, especially after your assumption that if it sold for less you probably would sell more and your wholesale price remains unchanged?

Mr. WILLIAMS. I think there are many factors. A retailer doesn't like to have a product which is, so-called, kicked around. I think price maintenance existed even before the fair-trade acts. He gets a price which yields him a certain profit. If everybody is going to kick the price around he has no reasonable knowledge as to what his profit is going to be at any time. Again I refer to the declared purpose of the Act. The producer-owner also has a definite interest in maintaining the standard of his mark.

Dr. LUBIN. I am not interested in the purpose of the act because there is nothing in the act which compels you to take advantage of it. You deliberately set about to take advantage of the act, and I am trying to find out what gains you can get, particularly after your admission if the resale price was lower and your wholesale price remains unchanged you would sell more product.

Mr. WILLIAMS. If we gave it away we would increase our volume too, but on the other hand there is a point where we have got to make a profit and the retailer has to make a profit and the wholesaler has to make a profit, so we can't arbitrarily charge \$3 or \$2.50. We are limited to business practices. We have just got to make money to stay in business.

Dr. LUBIN. I agree with that. After all, the resale-price law has nothing to do with the wholesale price that you get for your product.

Mr. WILLIAMS. That is true.

Dr. LUBIN. You admit that you continue to sell that, and if the retail price were lower you could still sell more and still get the same wholesale price. I am trying to find out what advantage you get out of it.

Mr. WILLIAMS. As I indicated to the other gentleman who sat to your left, because of practical reasons the retailer must have a fair profit. As I told you before, we don't have any formula to determine a fair profit, but we figure 25, 30, 35 percent as a fair profit. Why, I don't know.

Dr. LUBIN. Why do you feel it is your duty to see he gets a fair profit? After all, you have got your wholesale price which takes care of your own profit. Why are you interested in seeing that he gets a certain specific return?

Mr. WILLIAMS. Because it is to our advantage. The retailer will buy a price-maintained product when he probably wouldn't otherwise.

Dr. LUBIN. That is what I am trying to find out, what the advantage is. You think you can sell more liquor under a fixed-price arrangement.

Mr. WILLIAMS. I think so, and it would rebound to our ultimate benefit.

Mr. BERGE. This is such a good policy, why do you only follow it in six States, although you are permitted to in many more?

Mr. WILLIAMS. Because the conditions requiring the fixing of prices is not existent in many of those States. That is the only answer I can give you, and also there may have been no particular demand on the part of retailers for a program of that type. Again I say we approach it in a very practical manner. You can realize the size of the legal staff that we would have to maintain if we put a fair-trade act into 41 States.

Mr. DAVIS. Who absorbs the difference between your price and the price of Haig & Haig on a comparable product, or White Horse, the wholesaler or the retailer?

Mr. WILLIAMS. I don't quite understand your question.

Mr. DAVIS. Well, as Dr. Lubin has pointed out and as has been stated on the stand here, the price you receive from the wholesaler for Johnnie Walker is more than the price received for White Horse, and yet the selling price fixed at least in New York is the same, \$3.39 a fifth. Who absorbs that difference?

Mr. WILLIAMS. I believe the wholesaler. It is a matter of a few cents, isn't it?

Mr. LYNCH. It is a matter of 7 cents a bottle.

Mr. WILLIAMS. These figures were given to me and I believe they are accurate. These prices are tax paid; I assume that Mr. Newman's figures were also tax paid, but I don't know.

Mr. LYNCH. That would still leave the same difference of 7 cents a bottle, tax paid or not.

Mr. WILLIAMS. I don't know what he includes in his price.

Mr. DAVIS. He said that was the price he received from the wholesaler.

Mr. WILLIAMS. If there is 7 cents a bottle, that is probably our profit. I don't think there is that difference. I don't know.

(Mr. Ferguson assumed the Chair.)

Mr. LYNCH. I believe in relating the purpose or philosophy of these fair-trade acts you said that one basic purpose was to protect the mark of the owner. The owner of the mark is D. C. L. You are not the owner of the mark, yet your company fixes the prices. How do you reconcile the practice with the philosophy that you expressed?

Mr. WILLIAMS. A damaging effect on the Johnnie Walker mark in this country would certainly affect us. Under these acts, as I understand them, the authorized agent, or the authorized distributor—put it that way—has a right to take advantage of the provisions.

Mr. LYNCH. That is true as to the law, but do I understand that D. C. L. as the owner of the mark has expressed its interest as owner and as proprietor of the mark in having resale price maintenance in the United States?

Mr. WILLIAMS. No, sir.

Mr. LYNCH. It is a situation, then, where the owner of the mark may not wish it, as the owner of the mark, the one for whose advantage the act was passed, yet at the same time resale price maintenance is placed in force.

Mr. WILLIAMS. I don't believe the act is for the sole protection of the owner of the mark, because the act empowers any distributor, as I understand it, or any retail dealer, to take advantage of the provisions of the act.

Mr. LYNCH. What is the policy of D. C. L. with reference to price maintenance in the United States market?

Mr. WILLIAMS. It has never been discussed with them to my knowledge.

Mr. LYNCH. You mean as the owner of the mark they have never expressed any interest one way or another?

Mr. WILLIAMS. No.

Mr. O'CONNELL. That is rather interesting to me. Your contract with D. C. L. by which you obtain the exclusive sales agency for this particular type of whisky makes no reference to, nor are you required to maintain, the resale price at all?

Mr. WILLIAMS. No, sir.

Mr. O'CONNELL. So they apparently feel that they have no interest as the owner of the brand, of the mark, in maintaining the resale price.

Mr. WILLIAMS. We have never discussed resale price with them.

Mr. O'CONNELL. So to the extent that the act may be for the purpose of protecting the owner and the brand your company is a volunteer?

Mr. WILLIAMS. Yes.

Mr. O'CONNELL. The owner of the brand isn't interested.

Mr. WILLIAMS. I can't answer that.

Mr. O'CONNELL. I can see that you are very much interested but apparently the owner of the brand is not interested.

Mr. WILLIAMS. No, sir; they have never been consulted, and I think I have issued all the contracts and I have never even discussed it with anybody in the Johnnie Walker Company.

Mr. NATHAN. Do you know whether the six States in which you take advantage of fair-trade practice laws are the same six States in which, let us say, Mr. Newman and most of the other distributors do?

Mr. WILLIAMS. I don't know, frankly.

Mr. NATHAN. Obviously it would not be to your advantage to do so in a State where I presume the other distributors of standard brands would not.

Mr. WILLIAMS. Frankly, I don't know; I think probably in New York State is the only State I know where there are any other Scotch fair-trade contracts in existence.

Mr. O'CONNELL. Mr. Newman testified that there were six or seven States in which his company also maintained resale prices.

Mr. WILLIAMS. They probably are not identical, I don't know.

Mr. O'CONNELL. You don't think that the policy of another company would have any influence on your policy with regard to a particular State?

Mr. WILLIAMS. No. You see, we are in the ginger-ale business, too, and we have 14 plants in this country, and we have somewhat the same situation on ginger ale.

Mr. O'CONNELL. Do you maintain the resale price of ginger ale?

Mr. WILLIAMS. In a few States.

Mr. O'CONNELL. Six?

Mr. WILLIAMS. No; probably in about four or five.

Mr. O'CONNELL. Four of the six, or different States?

Mr. WILLIAMS. I believe they are the same.

Mr. O'CONNELL. Your company apparently hasn't any very well defined policy as to whether it takes advantage of laws.

Mr. WILLIAMS. Again I say it is a practical question.

Mr. O'CONNELL. Yes; I guess it is. We don't seem to have any practical answer for the practical question.

Mr. WILLIAMS. We have a very practical answer.

Mr. O'CONNELL. I haven't heard it.

Mr. WILLIAMS. We don't do it unless we find conditions warrant it.

Mr. LYNCH. Conditions as to retailers or conditions to the interest of the retailer or conditions governing the distribution of your product and which you would take into consideration relating to your own business?

Mr. WILLIAMS. As I said before, the factors are numerous; there is particular interest in protecting our mark; we don't like to have our mark thrown around.

Mr. LYNCH. The primary interest is the interest of your company, you agree to that?

Mr. WILLIAMS. Yes; I think so.

Mr. LYNCH. I believe you said you didn't take any consideration of relative efficiency of the retailers.

Mr. WILLIAMS. I don't think we could, very practically.

Mr. LYNCH. So that you don't take into consideration the disparity in cost of distribution as between one retailer and another.

Mr. WILLIAMS. I am afraid I would have to have the Brookings Institute make a survey before I could answer it; we could undertake that.

Mr. LYNCH. It is obvious without the assistance of Brookings Institution that there exist varying degrees of distribution costs on the part of various distributors and retailers.

Mr. WILLIAMS. I think that is a fair assumption that exists in all industries.

Mr. LYNCH. What is your policy, if you have any, in working in that expensive play of distribution costs or efficiency of different distributors?

Mr. WILLIAMS. We have taken very little interest in that. We can't do it.

Mr. LYNCH. Perhaps this is a trifle dialectic, but if you say the purpose of the fair-trade act and your purpose is to benefit the retailer and yet at the same time you don't take into consideration any factors of disparity between costs of retailing, I am left somewhat puzzled.

Mr. WILLIAMS. I just say that as a practical matter we couldn't do it.

Mr. LYNCH. It comes back again to being the interest of your company that predominates.

Mr. WILLIAMS. Of course; we are in the business to make money and that is our primary interest, like all other business.

Mr. LYNCH. And regardless of whether that be the stated purpose of the fair-trade act, that is the net effect of the act in your practice?

Mr. WILLIAMS. That is one effect.

Mr. LYNCH. In furthering the interest of the wholesaler in your case?

Mr. WILLIAMS. The sole distributor.

Mr. LYNCH. Yes.

Mr. BERGE. Mr Chairman, a few moments ago in discussion with Mr. Williams I think I referred to Macys as notorious price cutters. I want to make it perfectly clear that I didn't use that language in any critical or derogatory sense.

Mr. WILLIAMS. That is perfectly all right.

Mr. BUCK. No further questions.

#### ADVERTISING EXPENDITURES OF FOUR LARGEST DISTRIBUTORS

Mr. BUCK. At this point I would like to offer for the record a statement with respect to the advertising of distilled spirits by the four large domestic distillers; that is, National, Schenley, Seagram, and Hiram Walker. The figures are set forth and they are the best available figures on the subject that we can find. They do not include, however, the total advertising expenditures of the companies involved, because outdoor advertising or point of sale and specialty advertising is not included. It seems hard to get those. We are advised that \$4,000,000 is the approximate figure for outdoor advertising, and \$1,000,000 for local outdoor advertising.

I have also, in connection with the statistics, the total figures, forty-two million eight hundred and twenty-nine thousand two-hundred-some-odd dollars.

In addition to those figures I have illustrated copies of advertising that the committee might desire to look over just as a matter of interest. I don't believe they could be reproduced in the record. I will offer the statistics for the record, and this illustration of the type of advertising for the committee's own interest.

(The tabulation entitled "Advertising of Distilled Spirits" was marked "Exhibit No. 427" and is included in the appendix on p. 2717. The illustrations of the advertising referred to were marked "Exhibit No. 428" and are on file with the committee.)

Mr. BUCK. This afternoon we will take up examination of the Distilled Spirits Institute.

Acting Chairman FERGUSON. The committee will recess until 2:15. (Whereupon, at 12:45 p. m., a recess was taken until 2:15 p. m. of the same day.)

#### AFTERNOON SESSION

The hearing was resumed at 2:30 p. m. upon the expiration of the recess.

Acting Chairman FERGUSON. The committee will come to order. Mr. Buck, are you ready to proceed?

Mr. BUCK. Yes, Mr. Chairman.

Dr. Doran.

Acting Chairman FERGUSON. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dr. DORAN. I do.

#### TESTIMONY OF DR. JAMES M. DORAN, TECHNICAL ADVISER TO THE DISTILLED SPIRITS INSTITUTE, WASHINGTON, D. C.

Mr. BUCK. How are you feeling, Doctor?

Dr. DORAN. Never better.

Mr. BUCK. State your name and position, please.

Dr. DORAN. James M. Doran; at present I am technical adviser to the Distilled Spirits Institute and other members of the industry.

Mr. BUCK. Doctor, will you state your position in respect to the whisky industry during the past 4 years?

Dr. DORAN. Starting in with repeal of the twenty-first amendment, in December 1933, I was appointed director of the Distilled Spirits Institute and also supervisor of the code authority which administered under the supervision of the Federal Alcohol Administration the code relating to the distilled-spirits industry.

Mr. BUCK. That was under the National Industrial Recovery Act?

Dr. DORAN. That is correct.

Mr. BUCK. And that situation washed out in May 1935 with the Schechter decision?

Dr. DORAN. That terminated. The code authority terminated with the Schechter decision, and thereafter the industry operated as a trade association under the title of the Distilled Spirits Institute.

(Representative Williams assumed the Chair.)



Mr. BUCK. Previous to that time you had been connected with the Treasury Department for a number of years?

Dr. DORAN. I had been in the Treasury Department since 1907.

Mr. BUCK. Then in order to get the chronological order of this, you were in the Treasury Department from 1907 to 1933?

Dr. DORAN. That is correct.

Mr. BUCK. In 1933 you became code authority director under the distillers' code which was set up under the National Industrial Recovery Act, is that it?

Dr. DORAN. That is right.

#### INCEPTION AND OPERATIONS OF DISTILLED SPIRITS INSTITUTE

Mr. BUCK. Then in May 1935, following the Schechter decision, the dissolution of the codes and the Recovery Act, you say the distillers organized an independent association of their own?

Dr. DORAN. No; at the time of repeal the distillers organized a trade association, called the Distilled Spirits Institute, which operated along with, for lack of a better term, the code authority.

Mr. BUCK. They did what? I didn't hear you.

Dr. DORAN. They operated supplemental to the operation of the code authority.

Mr. BUCK. I see, that was in existence during the code-authority period?

Dr. DORAN. That is correct.

Mr. BUCK. Who was head of the Institute then?

Dr. DORAN. I was.

Mr. BUCK. Then you weren't head of the code authority?

Dr. DORAN. I was; I was head of both of them.

Mr. BUCK. You were head of both of them?

Dr. DORAN. That is right.

Mr. BUCK. One organization represented the independent organization of distillers, the other represented this quasi governmental status.

Dr. DORAN. The Distilled Spirits Institute was a voluntary trade association. All members of the industry did not choose to join the Distilled Spirits Institute. All members of the industry, however, were by virtue of holding permits to distill liquor, within the jurisdiction of the code authority.

Mr. BUCK. Well, I am trying to clearly establish in the record the status of these two organizations you speak of that existed simultaneously; that is, the code authority and the organization known as the Distilled Spirits Institute. Those two did exist simultaneously and together?

Dr. DORAN. That is correct.

Mr. BUCK. You were president or director of both?

Dr. DORAN. I was the executive officer in both of them. Might I explain why the Distilled Spirits Institute was organized coincidentally with the coming into operation of the code authority? Many States were enacting very intricate and diverse laws in connection with the legal manufacture, sale, and taxation of distilled spirits. The code authority was set up to deal with operations under the National Industrial Recovery Act. It was necessary to have some means whereby

the industry could keep itself in line with the various State enactments and regulations made thereunder.

Mr. BUCK. One was, as I have stated, a quasigovernmental organization; the other was the voluntary association of distillers.

Dr. DORAN. That is correct.

Mr. BUCK. You say the function of the voluntary association was to look after State legislation and State matters pertaining to whisky?

Dr. DORAN. Primarily; but the National Industrial Recovery Act did not encompass the relationship of the industry to the taxing authorities of the Government, and that was under the direct jurisdiction of the Treasury Department through the Alcohol Tax Unit. The industry had many common problems before the taxing authorities which could be handled more adequately and with much greater satisfaction through a trade association operating for all members.

Mr. BUCK. What do you mean by more adequately handled?

Dr. DORAN. When repeal came there was, of course, great confusion and a great lack of information. Many small distillers were greatly in need of advice as to the regulations of the Treasury Department, which were then in their formative period. The Institute served as a clearing house for information, dissemination of information, for all of those units who could not take the time from their business to come to Washington and find out personally just what the requirements were. There was nothing in print at that time.

Mr. BUCK. Do you mean to imply that the large distillers adopted a "big-brother" attitude toward the small ones?

Dr. DORAN. No; I don't mean to imply anything of that sort, Mr. BUCK, but by the very nature of the case the smaller distiller who is busy with his own affairs, trying to get his business established, cannot come down to Washington and spend half his time trying to find out what his primary duties are under the law.

Mr. BUCK. He has access to the laws, of course.

Dr. DORAN. Oh, yes; everybody knows the law, or is presumed to.

Mr. BUCK. When the N. R. A. organization collapsed under the Schechter decision in 1935, nearly 4 years ago, that left in existence this distillers' organization. Is that right?

Dr. DORAN. That is correct.

Mr. BUCK. And you remained as director of that organization?

Dr. DORAN. Yes, sir.

Mr. BUCK. And wound up the affairs of the code authority?

Dr. DORAN. Yes, sir.

Mr. BUCK. And adjusted those and took over the distillers' organization proper?

Dr. DORAN. That is right.

Mr. BUCK. And how long did you remain director of that organization?

Dr. DORAN. I remained director until the spring of '37.

Mr. BUCK. The spring of '37?

Dr. DORAN. Yes.

Mr. BUCK. Did you incorporate it or is it incorporated?

Dr. DORAN. It is incorporated, a nonprofit corporation incorporated under the laws of the State of New York.

Mr. BUCK. When was it incorporated?

Dr. DORAN. I suppose about the first week in December of 1933, just about coincident with repeal.

Mr. BUCK. How many members in the distilling industry, let us say in 1936, were members of the Institute?

Dr. DORAN. Oh, probably 85 or 90 percent of the entire production. Those figures are available, but I can't recall the exact number, but it was about that.

Mr. BUCK. That is based on production.

Dr. DORAN. Yes.

Mr. BUCK. I am speaking of units.

Dr. DORAN. Units, probably a less number. There were a great many small plants that were automatically in the code authority, that is by law and regulation, who did not retain their membership in the Distilled Spirits Institute. For example, many of the brandy plants on the west coast that operate only 2 or 3 weeks of the year and produce brandies solely for the purpose of rectifying wines were obviously not interested in a trade association dealing with the distilled spirits industry generally. Those men almost without exception dropped out of the Institute.

Mr. BUCK. Let's confine this to whisky distillers. Did some of those drop out?

Dr. DORAN. Some of the smaller members did not continue their membership in the Institute, for reasons I can't tell. I would be very glad to state if I knew—possibly because they didn't find the business profitable, trying to liquidate. When repeal came, of course, many people endeavored to engage in the distilling of whisky, many without experience, many without capital. At that time people were searching around for something profitable to engage in and this seemed an attractive new field. Many of them were not able to make the commercial grade and dropped out.

Mr. BUCK. You don't know why they dropped out. You were in charge of the Institute at the time. Did they make any explanation to you?

Dr. DORAN. Very seldom.

Mr. BUCK. Did they ever?

Dr. DORAN. Why, I think some of them did. I think they said, "We quit distilling; we are going out of business. Our business is so small that we don't feel that there is any particular advantage to us in retaining membership in a national trade association."

Mr. BUCK. What were the dues for membership? What were the charges made against members?

Dr. DORAN. The dues in the early few years, and I am just quoting from memory and it may not be exact, were one-tenth of a cent per each gallon produced. It was a dues based on production. Of course, by reason of that schedule the larger distiller, that is the larger producer, would pay more into the Institute, but in the organization of the Institute every operating company had but one vote.

Mr. BUCK. How often did you vote?

Dr. DORAN. We had a meeting of the board of directors on the average of once a month and sometimes more frequently. The largest operating company in the United States, with a number of subsidiaries, had the same vote that the smallest whisky distiller in Massachusetts or Kentucky had.

Mr. BUCK. Were all members on the board of directors?

Dr. DORAN. No, sir. The bylaws of the Institute provided that each group making a particular category of spirits would them-

selves meet and elect their representatives on the board. The by-laws provided for the number of members that might be elected from each group. For example, the whisky people elected their representatives, the rum people elected their representatives, the brandy people elected their representatives, and the gin people likewise elected their representatives.

Mr. BUCK. So when you say you held monthly meetings of the board of directors and that each member was entitled to vote, you don't mean that each member could vote in the board of directors meeting?

Dr. DORAN. Oh, no; I was speaking of the board of directors meetings. We had general institute meetings from time to time, at which time each member had one vote. On the board of directors which also met from time to time, but at no stated interval, each director had one vote, regardless of whether he happened to be an officer of a large or small distilling company.

Mr. BUCK. If he was on the board, he could vote.

Dr. DORAN. He could vote, and only once.

Mr. BUCK. How many directors did you have?

Dr. DORAN. There was 18 directors in the early days, as I recall. That was later enlarged to 20.

Mr. BUCK. You were charging the membership one-tenth of 1 percent on the amount of spirits produced?

Dr. DORAN. One-tenth of 1 cent per gallon on spirits produced.

Mr. BUCK. Considerable spirits were being produced during the years '34, '35, '36, and '37, I believe.

Dr. DORAN. That is right.

Mr. BUCK. Do you recall the total receipts of the Institute?

Dr. DORAN. No. The books will show that. I haven't that data at hand. The receipts from production, of course, were much higher in the early years than they were in the last year and a half when production curtailed I think in a normal fashion. On this production situation, you must recall, Mr. Buck, that it was inevitable that there would be an over-capacity employed in the first 3 or 4 years to build up this backlog of storage which did not exist when repeal took effect. Therefore, at the end of 4 years you would inevitably have both an excess of productive capacity and a normal curtailment of production which was largely a replacement quantity, and the business became stabilized.

Mr. BUCK. And when that situation took place in respect to production, you changed your theory of assessment of your members, didn't you?

Dr. DORAN. That was changed last year. I am not entirely familiar with that as I have not been in any executive capacity with the Institute for some time.

#### ACTIVITIES OF THE INSTITUTE

Mr. BUCK. Now, beginning with the organization of the institute entirely aside from the code authority activities, what have been the activities of the Institute? What services has it rendered to its members? What have been its activities in respect to legislation in various States and the Federal Government, and to the formulation of rules and regulations in the States and Federal Government?

Dr. DORAN. I will be very glad to explain that as best I can. In the first place, this is the most highly regulated industry in the world. Every State operated as a laboratory, on a trial and error method. No two States' laws were alike. The Federal regulations were in their formative period. It was absolutely essential for the conduct of this industry, in order to keep them in line and in conformity with not only the Federal regulations, but State, city, and county 'that they be fully informed of all acts passed, the nature of the regulatory bodies set-up, the new rules of these regulatory bodies—and they change frequently. I think one of the most important functions of the Institute in the early days was to try to inform the industry as to what was required of them in order that they be strictly within the law in every State where it was legal to ship and sell whisky.

As to activities in legislative bodies, the Institute never engaged in lobbying activities. It was necessary from time to time, however, and I think perfectly proper, to appear before legislative committees, either the officers of the Institute or through attorneys, to point out the need of more uniform regulation, more practical regulation, and generally to urge that such legislation be passed only as would be strictly in the public interest.

This industry has always known that it was an industry that must of necessity be very closely supervised and they never opposed regulation. Their whole interest in legislative matters was to advise wise legislation.

Mr. BUCK. That is from your standpoint.

Dr. DORAN. Well, that is what you asked me.

Mr. BUCK. That is right. You did have price filing in the Institute; is that so?

Dr. DORAN. We did. That is correct. On January 20, 1934, the Federal Alcohol Control Administration, of which Mr. Choate was the director—it was an administration composed of a number of people; Mr. Choate was the head—issued a regulation requiring all members of the distilled-spirits industry to file with the code authority and by the code authority to be transmitted to the Federal Alcohol Administration a complete schedule of prices and to notify the code authority and the Federal Alcohol Administration through the code authority any change of prices. No change could be made until a lapse of 3 days.

This regulation required a filing of complete schedule of prices, of barrel goods, of case goods, f. o. b. distillery and any collateral charges connected with the price. It also required the filing of a suggested wholesale price and a suggested retail price. That regulation was in effect until the Schechter decision when we, by our own voluntary action, abolished all open price filing.

Mr. BUCK. Was there any function of the Institute with respect to prices at all after that date?

Dr. DORAN. None whatever. Prices were never discussed in the Institute.

Mr. BUCK. What did you discuss at these directors' meetings?

Dr. DORAN. The institute was primarily engaged in informing its members of what was going on in the various regulatory bodies; it maintained a statistical service; it adopted a code of business conduct and a set of rules that not only fully met the requirements of the

Federal Alcohol Act, but went beyond that and set up a system of self-regulation, and I would say that the great part of the time of the meetings of the institute and the directors was devoted to developing these activities within the industry.

Mr. BUCK. Were you given authority under the organization of the Institute to enforce any of those things?

Dr. DORAN. I had nothing but the power of moral suasion.

Mr. BUCK. Not having the authority to enforce or promulgate any self-discipline or self-regulation for the industry, what was the purpose of the activities in that regard?

Dr. DORAN. Most people want to do what is right, and when, by common counsel, they determine on a wise course of action, a general meeting of the minds will as a rule carry that principle forward. I would say it is a very fine example of a voluntary restraint placed by an industry upon itself.

Mr. BUCK. Could this board of directors adopt self-disciplinary measures for the entire industry?

Dr. DORAN. The board of directors would from time to time adopt resolutions expressing it as their sense that certain rules of conduct be followed for the guidance of the industry.

Mr. BUCK. It would be their sense that it should be done, and that rested the subject?

Dr. DORAN. No; they went a little further in some respects. Take for example the matter of participating in these liquor shows, where they had displays of bottles. The board of directors adopted a resolution to this effect, and it was unanimously agreed to by the membership, that no member of the industry would exhibit in any of these so-called liquor shows unless and until the matter had been placed before the board of directors of the Institute and by them agreed to. The consequence was that we stopped all of that.

Mr. FERGUSON. May I ask Dr. Doran a question?

Acting Chairman WILLIAMS. Certainly.

Mr. FERGUSON. You said, Dr. Doran, when these directors and businessmen get together they want to do what is right. Well, isn't it a fact that very often what they think is right may be in contravention of the antitrust laws? In other words, they don't agree with the policy of the antitrust laws.

Dr. DORAN. Well, I have never heard anybody in our industry give voice to any such expression, Commissioner Ferguson. Whether they think so I don't know, but I can say this very truthfully, that this industry is used to being regulated. It is probably the most sensitive industry in the United States, if not the world, and any government body has only to suggest a course of conduct and it will be followed. I have never met or had to do with a group of men who, as businessmen, felt under such necessity of following not only the letter but the general view of the law of any governing body.

Mr. BUCK. What other specific things did the Institute do between 1935 and the time that you left it?

Dr. DORAN. Well, as I told you, Mr. Buck, it was engaged largely in informational statistical activities and an endeavor to aid our membership in keeping continually in line with Government and State regulatory matters. The detail of the activity was so voluminous; you must recall that every 2 years in this country about 44

legislatures meet in session and they hold frequent special sessions. The State laws are continuously changing; personnel of State boards of control, State commissioners of control are continually changing; new rules are coming up from time to time. Just the keeping up with these continuous changes—I am talking about State, not Federal—was of itself a monumental task, but vital to this industry. That alone was a tremendous activity.

Mr. BUCK. Well, Doctor, name some specific thing that the industry did in that period. You say you dispersed general statistical information.

Dr. DORAN. I don't suppose there was a day, Mr. Buck, that the Institute didn't send out anywhere from one to five pages of advice as to what had happened either in Albany or the A. B. C. Board in New York or Massachusetts, South Carolina, New Mexico, or what was going on in Minnesota. About 2 years ago we were confronted by what seemed to be a very serious situation with respect to what were then known as antidiscriminatory laws, laws which set up barriers as between the States, which were very hampering and restricting. They were retaliatory laws directed against one State or a series of States, a number of States, whom they thought were discriminating against them.

We did our best, and expended considerable energy, in endeavoring to convince various legislatures that they shouldn't enact those laws, which we felt were against the public interest, to say nothing of being against the interests of our industry.

Mr. BUCK. You were then acting for the good of the State, I assume.

Dr. DORAN. No; I wouldn't say that. I think our people are good citizens and as citizens and businessmen we didn't see that this tendency to set up State barriers against trade, even the liquor trade, was a wise public policy. We endeavored to combat it, notwithstanding the fact that the Supreme Court in the *Youngs Market case* says that any State might do that.

Mr. BUCK. So, notwithstanding the fact that the Supreme Court declared such laws to be constitutional and the prerogative of the State, you felt it your duty, or the industry felt it its duty, to go into the State legislatures and advise them against such action for their own good, or for the good of the industry.

Dr. DORAN. We felt we were well warranted, as I say now we are well warranted, in endeavoring to convince any State legislature by any proper means that such enactments are against good public policy.

Mr. BUCK. Did the Institute adopt that policy in respect to any State law that might affect its members' welfare?

Dr. DORAN. No; unless it was something that was obviously unreasonable and would contribute to lawlessness. The Institute has always taken the position that the manner of control of liquor was strictly a business of the State and locality with which the distillers have no concern. They did feel it their duty, however, to point out any proposal that they thought might be unwise from practical experience. We know very well that unreasonable restrictions, both as to tax and regulatory matters, do nothing but contribute to bootlegging and add to consumers' costs.

Mr. BUCK. What other specific laws did you find it necessary to discuss with State legislatures?

Dr. DORAN. I don't recall any other specific laws at this time, Mr. Buck. That was a series of laws, a kind of epidemic.

Mr. BUCK. General throughout the Nation?

Dr. DORAN. General throughout the Nation, and I believe it has been discussed from time to time since in this field and in other fields.

Mr. BUCK. In other words, when the States realized they had the constitutional right to legislate upon this question, they naturally began to exercise that right, and you felt it the duty, or the industry felt it the duty of the Institute to guide the States in that.

Dr. DORAN. That is hardly the correct point of view so far as the Institute is concerned, Mr. Buck. Most of these so-called antidiscriminatory laws germinate selfishly with people who desire to secure a fully protected market in their own little locality and lose entire sight of the fact that trade within the 48 States ought to proceed reasonably free, and I may say that when this matter was presented practically every legislature turned this legislation down after being informed as to what the implications were.

Mr. BUCK. What about tax legislation in the States? Does the Institute concern itself with that?

Dr. DORAN. Only to this extent if an unreasonable tax bill is presented; the Institute has never, to my knowledge, done anything but present statistical information which is as plain as a book that when taxes are increased past the optimum point there is loss of revenue and an increase of bootlegging. We have never gone beyond that point. The industry realizes that it is a medium for the collection of a very substantial tax. We think it is to the interest of the State and Federal Governments to place that point in the light of experience at the optimum point where the maximum revenue will be secured and the minimum of lawlessness generated.

Mr. BUCK. Is this a fair characterization of the State activities of the Institute? In all legislation that the Institute or industry considered might affect its general welfare, that it concerned itself with that?

Dr. DORAN. No; that is not correct.

Mr. BUCK. How would you characterize it?

Dr. DORAN. Many hundreds of bills have been introduced and passed but while they may not have been agreeable to all members of the industry, we took the position that it was wholly the prerogative of the State; it was not unreasonable and it was none of our affair.

Mr. BUCK. What other specific laws did the Institute concern itself with?

Dr. DORAN. Well, the Institute was able to cooperate with the Treasury Department, the Alcohol Tax Unit, when a general revision of the statutes governing the taxation of liquor and the regulation of distilleries was undertaken, some 2 or 3 years ago. Bear in mind that many of the existing statutes up to that time had been enacted prior to 1879, and they dealt with practices as of those dates. We were of some considerable assistance, I think, to the Treasury Department and the Alcohol Tax Unit and to the committees in Congress in trying to bring about a modernized code dealing with Government



supervision of this industry; in other words, to try to bring the thing down to date to conform with modern industrial practice.

Mr. BUCK. You didn't advocate any legislation that was against the best interests of the liquor industry, did you?

Dr. DORAN. Well, I will say this: I have taken the position, and been backed by the Institute every time, where one or two members might have felt there would be some immediate commercial advantage, we have always taken the position that this industry must be strictly regulated, and the bill might not be capable of good administration, and therefore would be unwise. I have done that frequently.

Mr. BUCK. Do you care to state any other specific activities of the Institute during your term of office that might be of interest to the committee?

Dr. DORAN. They were so numerous over that period of time that I am afraid I can't pick out any special thing at this time, other than what we have discussed. I have no doubt, had I opportunity to review the minutes of the action of the Institute, many more things would occur to me. I have endeavored to give you my best recollection of the main activities of the Institute.

I might say this: The Institute has been a clearing house for information for all branches of the industry—wholesale, retail, rectifying, and what not—which information was always very gladly furnished.

Mr. BUCK. Where is the Institute located?

Dr. DORAN. National Press Building.

Mr. BUCK. Washington?

Dr. DORAN. Washington, D. C.

Mr. BUCK. Is this the center of the whisky industry? For any geographical purpose is it located here?

Dr. DORAN. Well, we have a very substantial industry right close at our door in Maryland. I will say this: It is much closer geographically to the industry than is New York, Chicago, or San Francisco, and has many other points of convenience, principally, I say, because I live here.

Mr. BUCK. In other words, where you went the Institute went?

Dr. DORAN. No, indeed. The Institute at one time set up an office in New York, but finally concluded that it could operate to better advantage by discontinuing the New York office and centering its activities in Washington.

Mr. BUCK. And you found that to be the case?

Dr. DORAN. That is correct. We are supervised by many governmental departments here, as you know. The F. A. A., the Alcohol Tax Unit, we occasionally have a little matter with the Federal Trade Commission and the Food and Drug Administration, and a little with the Interstate Commerce Commission and the Department of Commerce, and it seemed very logical to me that the headquarters of the Institute should be right here in Washington.

#### OFFICE AND PERSONNEL OF THE INSTITUTE

Mr. BUCK. What staff do you maintain, or did you maintain from 1935 on, up until you left the Institute in '37?

Dr. DORAN. We had the usual clerical staff, the group that attended to the mechanical work, statisticians, attorneys.

Mr. BUCK. What were the executive positions of the Institute?

Dr. DORAN. My title changed several times and I can't tell you. I think I started in as executive director and then was made director, and then a technical director.

Mr. BUCK. What other executive officers did the Institute have?

Dr. DORAN. We had a secretary, a treasurer, and a counsel.

Mr. BUCK. A secretary, a treasurer, and a counsel?

Dr. DORAN. That is right.

Mr. BUCK. When did you adopt a public relations man?

Dr. DORAN. From the very start the secretary worked on public-relations matters. It so happened that he was an old and experienced newspaperman, and performed a very good function. However, as some of the social problems increased, it seemed wise to the directors to somewhat change, you might say, the emphasis from the regulatory set-up of the business, which was pretty well in hand, and proceed to the work of developing the social problems, with a view to securing such better results as might be secured from the public point of view. We are just as anxious to rub out abuses in this industry as anyone possibly could be. The life of the industry depends on its good conduct and its approval by the public.

Mr. BUCK. But you have no power to do that under your organization set-up, except as you say by moral persuasion or suasion.

Dr. DORAN. Well, the more people know about what they ought to do, the better off they are.

Mr. BUCK. Who were the officers of the Institute, the executive officers, from 1935, aside from yourself?

Dr. DORAN. I was executive head until sometime in the early spring of 1937, I believe, when Mr. Forbes Morgan was appointed administrator, and I was appointed as a technical director. Dr. Morgan very unfortunately lived only a very few weeks after his appointment. From that time on I remained as acting head of the Institute until last summer, when I resigned and accepted the position of technical consultant or adviser, and the board of directors then proceeded to elect Dr. Wesley A. Sturges as executive director of the Institute.

Mr. BUCK. Yes; but my question related to those other than the directors.

Dr. DORAN. There were no other changes—

Mr. BUCK (interposing). You haven't told me in the first place who were the originals.

Dr. DORAN. I was there as the original. Mr. Howard Jones, the counsel, was there originally; Mr. Emmet Dougherty was then the secretary. There are practically no changes in the executive staff or the clerical staff.

Mr. BUCK. That constituted the executive staff?

Dr. DORAN. That is correct.

Mr. BUCK. How large an office did you maintain?

Dr. DORAN. What do you mean, how much furniture, space?

Mr. BUCK. Well, let's take space and employees.

Dr. DORAN. I think there were 13 employees and possibly six or seven rooms in the Press Building; there might have been eight. I think we had a storeroom in addition.

Mr. BUCK. Do you recall the total salaries of the Institute?

Dr. DORAN. No; I couldn't say. The books would show all that. I can't recall.

Mr. BUCK. Aside from yours, what were the salaries?

Dr. DORAN. Do you mean the total salaries?

Mr. BUCK. Yes.

Dr. DORAN. I can't tell that without consulting the records.

Mr. BUCK. You haven't seen those lately, have you?

Dr. DORAN. As a matter of fact, I never did pay much attention to them. I didn't keep the books.

Mr. BUCK. You never suffered from lack of funds?

Dr. DORAN. No, sir; although I will say this: I believe it is a pity that the Institute didn't have more money to spend in dissemination of information and a more elaborate coverage on statistical reporting service.

Mr. BUCK. Now, Doctor, as a matter of fact, there were only 100 active distilleries, weren't there?

Dr. DORAN. That is about right, I think.

Mr. BUCK. Is that an enormous mailing list, do you think?

Dr. DORAN. Well, let me state this. It is our custom to include in the mailing list State officials and the executive officers at each one of the operating units. For example, one company, I believe it was testified to here 2 days ago by Mr. Porter, has nine operating units. Every one of the superintendents, executives in charge of those operating units, received all the information.

Mr. BUCK. There is only one superintendent in each unit.

Dr. DORAN. Well, you say 100 distillers. There is 1 distiller that had nine on the mailing list.

Mr. BUCK. No; I say 100 plants. So there would only be 100 superintendents.

Dr. DORAN. No; I think you are——

Mr. BUCK (interposing). Our statistics show 97. I say that is not a very large clientele to keep advised.

Dr. DORAN. We didn't confine merely to what you call clientele at all. The information that we thought was of some interest we mailed regularly, and, as far as I know, they still do, to State officials, to company attorneys, to trade journals, in the same manner that any information service operates, be it Government or private.

Mr. BUCK. What was the purpose of gratuitously furnishing States with such matters?

Dr. DORAN. It is our experience that the officials of various States are very glad to be advised of current Federal regulation as well as rulings and activities of their sister States. They have appreciated that service very much. We were very glad to furnish it to them. Most of them had no other facility for obtaining it.

Mr. BUCK. Then you take it upon yourself to act as sort of a guide for the State liquor officials.

Dr. DORAN. Not at all. You entirely misunderstand me.

Mr. BUCK. What is the object? What is the purpose?

Dr. DORAN. Well, I believe there is such a thing as people doing things occasionally because they believe they are good things to do, whether they get paid for it or not.

Mr. BUCK. You think that is one of the functions of the Institute, to do good, charitable deeds whether they get paid for it or not?

Dr. DORAN. No. I don't wish to be misunderstood—

Mr. BUCK (interposing). I don't mean to be facetious at all.

Dr. DORAN. I don't wish to be misunderstood in that respect. It has been our view—it still is, so far as I know—that to post information to all officials and people concerned was in everybody's interest. We didn't have to do this, of course. I still maintain that it was an excellent thing to do and to continue to do it.

Mr. BUCK. That is all.

Mr. O'CONNELL. May I ask a question or two? You prefaced your remarks about the activities of the Institute in connection with State legislatures or legislation in general by saying that the Institute had never indulged in what you referred to as lobbying activities.

Dr. DORAN. That is correct.

Mr. O'CONNELL. Would you mind explaining for my benefit the difference between what the Institute has done in connection with legislation in States and lobbying as you understand the word?

Dr. DORAN. Well, I don't know whether I am qualified to define lobbying; but if a legislature, through its committee, is holding a public hearing or a committee of Congress is holding a public hearing, it has always seemed to me very proper for anybody having any matter of interest to appear before that committee and furnish it with such information as they were possessed of. That I do not call lobbying. I think that is a right of every citizen.

Mr. O'CONNELL. You used the term "lobbying"; I didn't; and possibly you can tell me what it is.

Dr. DORAN. Pardon; I may have used it wrongly, but I wish you to understand what was the nature of the Institute activities. If it is a case of buttonholing members of the legislature privately, and entertainment, and all that, the Institute never engaged in any such activity.

Mr. O'CONNELL. I take it that would go more or less to the form of effort that would be made to influence legislation, but I understood from what you explained about the activities of the industry that it was the Institute's view that they were justified, not only justified but practically duty bound, to attempt to influence State and Federal legislation with a view to possibly the well-being of the industry.

Dr. DORAN. Well, I don't agree with you in the use of the term "influence." I think the conveying of information is perfectly proper, and I don't understand that the conveying of information operates as an influence on any legislative or congressional committee that is sitting in judgment as to what is the wisest course to pursue.

Mr. O'CONNELL. You possibly misunderstood me. I wasn't attempting to characterize what you people were doing, but it certainly seemed clear to me that whatever information you give to any legislative body, be it statistical information or whatever it is, is for the purpose of influencing legislation. Isn't that true?

Dr. DORAN. That is a partial answer. It may not be a direct answer. We have been invited on numerous occasions to furnish groups with such information as we possess.

Mr. O'CONNELL. That is interesting, but that isn't the answer to the question.

Dr. DORAN. Well, then, I am sorry; I apologize. I may have to ask you to repeat that question. I want to answer it fully.

Mr. O'CONNELL. It was my understanding that, regardless of the type of information that your organization would furnish to a legislative body, the purpose of furnishing the information, or whatever other activity your institution engages in, is to influence the passage of legislation. I mean that is not intended to indicate that there is anything wrong in that. I am merely trying to understand what the purposes of your activities are.

Dr. DORAN. Well, information, I suppose, is always furnished for the purpose of influencing them, anything of this sort, but I think there is a great distinction between what you have just defined and what might be improperly influencing them.

Mr. O'CONNELL. I hadn't used the word "improper."

Dr. DORAN. I used it myself.

Mr. O'CONNELL. I see.

One more question. You mentioned the various Government agencies that you or the Institute, I take it, has to deal with; you mentioned the Department of Commerce, the Alcohol Administration, and all that. Do you mean that those are agencies with which members of the industry have to deal or that the Institute as an organization has to deal with?

Dr. DORAN. Well, take the members of the industry, they may have to deal individually with regulatory matters arising under the Food and Drugs Act, the Alcohol Tax Administration or the Federal Alcohol Administration. Many individual members who are unable, as I said before, to take care of little and rather minor things to us but rather major to them—the Institute acts as a clearing house and endeavors to place their matters before the departments in the best way they could.

Now, as to the Department of Commerce, that is not regulatory at all, but the industry through the Institute has always had contact with the Department of Commerce because one of our slow, up-hill fights has been to try to develop a legitimate export business in these products made from agricultural products, and in that activity the Department of Commerce has been most helpful, and that is always best done through a general organization rather than individuals pursuing the matter with the officers of the departments. That is not regulatory, however; it is entirely helpful.

Mr. O'CONNELL. What I was interested in, is there any Government agency that has any regulatory supervision or direction over the Institute with which you are connected?

Dr. DORAN. As such, no, sir.

Mr. O'CONNELL. There is no Government agency in existence which exercises any regulation over the affairs of your organization?

Dr. DORAN. No, sir; no more than any other trade association so far as I know.

Mr. O'CONNELL. That is right, but I wanted to correct an impression that might have been created by what you said before about the number of Government agencies with which you have to deal.

Dr. DORAN. Which I said supervised us, and I am sorry for using that term. When I say us, I mean all the distillers.

Mr. O'CONNELL. Would you also tell me for my information how many members there are in the Institute at the present time?

Dr. DORAN. I cannot tell you right now. The present officers can.

Mr. O'CONNELL. All right; I will withdraw.

Mr. LYNCH. May I ask a question? In the industry, or at least as to the members of your Institute, is there existent a policy as to representation of the viewpoint of the industry before State legislatures. Let me be more specific. Is there an agreement, an understanding, or is it part of the by-laws that the industry viewpoint shall be put forth exclusively by the Institute?

Dr. DORAN. No, sir.

Mr. LYNCH. The situation then is possible that whatever point of view the Institute might put forward, individual members might put forth differing viewpoints?

Dr. DORAN. It is always possible, but I think I can clear you up in that point. It had never been the policy of the Institute and I do not think it now is to act as an institute on any important pending matter without first calling a meeting and having the entire matter canvassed, and have the membership give such instructions to the officers of the Institute as they saw fit. The Institute never independently assumed to do anything in that.

Mr. LYNCH. You would say that has been the practice with reference to the appearance of the Institute or any representative of the institute before a Government body in reference to any specific proposal?

Dr. DORAN. That is entirely correct, so far as I know, and naturally the Institute would act as an institute through its officers only for the membership of the Institute and at no time could it speak for anybody not a member of the Institute.

Mr. LYNCH. Has the Institute put forth any point of view or engaged in any activities or in any way appeared as spokesman with reference to fair-trade-practice acts?

Dr. DORAN. None whatever, within my knowledge.

Mr. LYNCH. I refer to State legislation.

Dr. DORAN. No, sir; the Institute has never been engaged in any activities with respect to the passage of fair-trade acts.

Mr. LYNCH. Or with respect to acts concerning resale price maintenance?

Dr. DORAN. Correct; none whatever, up to the time that I resigned as an executive officer.

Mr. LYNCH. Has the Institute adopted any policy in that respect?

Dr. DORAN. No, sir.

Mr. LYNCH. Or any expression of policy?

Dr. DORAN. No, sir; the Institute never concerned itself with matters of prices.

Mr. LYNCH. No matters affecting prices. Is that correct?

Dr. DORAN. Correct.

#### INTEREST IN LIQUOR TAX LEGISLATION

Mr. LYNCH. What residue did that leave of interest so far as legislation is concerned? Taxation?

Dr. DORAN. Taxation and innumerable regulation activities. I suppose it is quite natural for anybody to think that the particular field

in which he works is more involved than any other field, but I think I am quite safe in saying to this committee that there is no activity, no industrial activity, upon which so many Government actions are directed or to which so many Government actions are directed as this industry. Just to repeat, it is the most highly regulated industry in the world.

Mr. LYNCH. The reason I inquired, at least my inquiry was prompted in part by what you said with reference to taxation, that the industry necessarily is represented in reference to taxation because you feel that if the price as a consequence reaches a certain limit it may be an encouragement to bootlegging. I take it that that same consequence might result from undue advantage of resale price maintenance laws.

Dr. DORAN. I cannot quite follow you; I cannot see the connection there. I would call your attention to the testimony of Colonel Bullington of Richmond, who is a very able State official, who testified before this committee yesterday, stating that bootlegging was still quite prevalent. I won't attempt to quote his words; I think he said rampant; but it certainly is quite prevalent in the State of Virginia. Should the Legislature of Virginia have before it a bill to increase the margin of the State monopoly or impose a direct State tax, I think the industry as a whole in the interest of both itself and the citizens of Virginia would be well warranted in calling attention to experience in other localities, and in the Federal Government running back from the Civil War to this time.

Mr. LYNCH. I think perhaps you misunderstood my question. My question is simply this: Does the interest of the Institute in retail price of liquor, which, of course, would be affected by taxes, does that same interest carry over as to other circumstances affecting price, particularly fair-trade practice?

Dr. DORAN. The Institute has no interest whatever in prices or fair-trade-practice acts.

Mr. BUCK. The point, Doctor, I think is this: So far as increasing bootlegging, as you say, is concerned, if 25 cents additional tax or 50 cents additional tax per gallon would increase bootlegging, wouldn't the same 50 cents per gallon added as a result of fixed prices in the industry have the same effect?

Dr. DORAN. Well, I think that—

Mr. BUCK (interposing). What difference does it make?

Dr. DORAN. The question almost answers itself, Mr. Buck. If the price to the consumer gets up to a point that the bootlegger has enough margin to operate on profitably you will have bootlegging.

Mr. BUCK. Does the Institute fight against consumer price increase fixed by the commercial transaction to the same extent that it fights against consumer price increase caused by tax?

Dr. DORAN. As I said, the Institute has never been concerned with retail price.

Mr. BUCK. So the Institute is not concerned with prices so long as they are held up or fixed by distributors.

Dr. DORAN. It is very difficult to answer a question like that. The Institute is concerned with a condition that would promote bootlegging. However, these fair-pricing laws are matters of operation within the States, enforceable within the States, and we feel that it

is a field entirely separate and apart from the general public policy of high taxation.

Mr. BUCK. Has the Institute ever taken any action toward the reduction of prices to the consumer?

Dr. DORAN. Very much. The Institute and all its membership for the first 2 years after repeal were doing everything possible to bring down the prices of liquor, realizing that there was some considerable public reaction to the then inevitable high prices of liquor. The pity of it was that repeal caught the United States with such a very short supply of liquor.

Mr. BUCK. What did you do in that respect? What were your specific actions?

Dr. DORAN. We took no specific actions. It was a matter of industry discussion. I never talked to a man who at that time wasn't extremely anxious to bring his prices down just as rapidly as he could.

Mr. BUCK. Well, as a matter of fact, the industry had all the whisky there was, didn't it?

Dr. DORAN. Yes; but it wasn't enough.

Mr. BUCK. But, regardless of the amount, they had what whisky there was in the country, and if they had wanted to reduce the prices, or even were concerned over it, couldn't they have reduced it voluntarily? Couldn't they, as a matter of fact?

Dr. DORAN. They could have; and with this disastrous result: The whisky that the industry had on hand on repeal was very largely old whisky. If that had been put on sale at bargain prices, there would have been absolutely no base stock left for blending and the country would have been thrown on a whisky that, in my judgment, wasn't fit to drink. It was absolutely necessary to maintain that stock and use it so far as possible for blending purposes until such time as stock thereafter manufactured could be matured. Should that whisky have been sold for preprohibition prices, this country would have faced an era of bootlegging the like of which it never saw before.

Mr. BUCK. We produce 280,000,000 gallons in a year, and the consumption is only 70.

Dr. DORAN. But you must recall that repeal caught the country very ill prepared, both as to plant construction, and, of course, as to stock on hand. You cannot build a distillery overnight.

Mr. BUCK. Then it is your theory that the price of whisky was held up in order to protect the public?

Dr. DORAN. No; it wasn't held up—well, indirectly, yes; and it did have that effect, and a very fortunate effect, but as soon as the stocks were adequate, prices reached their normal level. The stock on hand now is ample.

Mr. DAVIS. Doctor, still those who had the price could pay that very high price for the old liquor then in existence, couldn't they?

Dr. DORAN. In a very limited way. I may say, Judge Davis, that many of the companies did not place on the market, at any price, a large portion of their aged whisky stocks. It was not for sale.

Mr. DAVIS. If it was so essential to retain that old liquor for future blending purposes, why didn't they keep all of it and use it for blending instead of selling it to those who were willing to pay the price?

Dr. DORAN. That is a commercial policy that I couldn't answer. Some of them sold some of it. Some refused to sell any of it.



Mr. DAVIS. Doctor, you stated, as I understood you, that the members of the Distillers Institute paid as dues to the Institute one-tenth of 1 cent per gallon produced by them.

Dr. DORAN. That is correct, in the early days.

Mr. DAVIS. What were the annual receipts and disbursements for the past 2 or 3 years of the Distillers Institute?

Dr. DORAN. I have not that information. I don't doubt it is available very readily for the committee. I just don't happen to have that, Judge. It is available.

Mr. DAVIS. Doctor, since the twenty-first amendment, as we are all aware, contests have gone on in practically all of the States involving the enactment of proposed bills permitting the sale or manufacture, or both, of hard liquor. That is a fact, isn't it?

Dr. DORAN. Yes; that is a fact.

Mr. DAVIS. And by now most of the States have passed such laws, have they not?

Dr. DORAN. All but three.

Mr. DAVIS. Did the Distillers Institute take any part in any of those contests?

Dr. DORAN. Not as an Institute; no sir.

Mr. DAVIS. Did any of the employees of the Institute visit any of these States in connection with those legislative contests?

Dr. DORAN. No, sir; not so far as I know, to engage in any local activity. There might have been some conferences with committees, or something like that, but at no time, so far as I know, did any officer of the Institute engage in any campaign activity, if that is what you mean.

Mr. DAVIS. I didn't ask that. I asked whether they visited the scenes of action in the various States.

Dr. DORAN. I think they did, in order to ascertain what the situation was. I think it a very natural thing to do.

Mr. DAVIS. They visited these States generally when those contests were pending simply as observers?

Dr. DORAN. That is correct. You must remember, Judge, that when a State suddenly changes its mind on this matter—when there is a possibility or a probability of change, the matter of making commercial arrangements for moving of stocks into the State, so the State can bring about a legal set-up, whether it is a monopoly system or license system, is quite important, because if a State legalizes the sale of liquor and legal liquor is not available, everybody sells "legal" liquor.

Mr. DAVIS. You don't think you could learn of the passage of an act of that kind without having a man visit the State?

Dr. DORAN. You can read the papers, and, as a rule, you will be correctly informed; but it is not a bad idea, though, if you want to know something, to ask people who really know.

Mr. DAVIS. Don't you generally write to the State officials and get a certified copy of such an act as soon as it passes?

Dr. DORAN. Yes; of course.

Mr. DAVIS. You rely more on that than on newspaper publicity, don't you?

Dr. DORAN. Of course, that is the law. But as you know, Judge, occasionally there are some people that are a little more acute ob-

servers of those conditions than others, and their judgment is, as a rule, worth quite a bit.

Dr. LUBIN. Mr. Chairman, may I ask a question? Dr. Doran, as director of the Institute for a certain period of time, just what, specifically, were your duties?

Dr. DORAN. I was a general executive officer. It is pretty hard to define the detail of the activities of an executive officer, whether it is time consumed in dictating letters or indicating what activity ought to be performed, or answering long-distance telephone calls, or conferring with department officials on what is required, seeing that the office runs smoothly. I can assure you that my time was fully taken up. I never worked as hard at any job in my life.

Dr. LUBIN. Of course, every executive has to be responsible for seeing that letters are answered, but I wonder if you would mind telling us just what the specific duties were; I am not inquiring as to what you wrote in your letters, but what were you responsible for?

Dr. DORAN. Well, matters would come up from time to time where I would have to form a judgment as to whether it was any business of the Institute to become active. It would be up to me to form rather prompt judgments on the proper scope of activity. Of course, matters could be referred to the board by telephone, if necessary, but the judging of the daily grist as it came in as to whether it was proper Institute activity occupied a great deal of my time.

Dr. LUBIN. Were you responsible, among your duties, for presenting to the board a budget for the activities of the Institute?

Dr. DORAN. Yes.

Dr. LUBIN. Do you recall off-hand what the budget was in the first year of your service?

Dr. DORAN. No; as I indicated to Judge Davis, those records are available. I do not have them with me, and I wouldn't attempt to recall them.

Dr. LUBIN. Would you mind telling us for the record what your salary was as director?

Dr. DORAN. \$30,000 per annum.

Dr. LUBIN. I was very much interested in what you stated relative to the feeling on the part of the Institute that it was its duty to see to it that no unreasonable tax bills were passed which might so affect the price of liquor as to stimulate bootlegging.

Apropos of the question asked you by Mr. Buck, at any time, in your opinion, did you feel that it was the function of the Institute to see it that other types of legislation which might so increase prices should be opposed?

Dr. DORAN. Only with respect to what we knew as the anti-discriminatory legislation. That did not relate to tax. That related wholly to a public-policy question.

Dr. LUBIN. Now, the question of price-fixing being legalized by fair trade practices is, of course, a matter of public policy. Did the Institute at any time feel that it might be well to oppose such legislation because such legislation might so increase prices as to increase bootlegging?

Dr. DORAN. No; the Institute did not concern itself with that type of legislation in the State legislatures, pro or con.

Dr. LUBIN. In other words, you were interested in prices only insofar as they might be fixed by tax policies and discriminatory policies.

Dr. DORAN. We were interested in tax legislation for the reason that the Federal Government and State governments had accumulated a very vast experience since the Civil War on the effect of rates of taxation. We knew nothing about the effect on the price structure, even if we should have cared to concern ourselves with it, which we did not, of these fair-trade acts, and personally, I don't know anything now.

Dr. LUBIN. Dr. Doran, in the course of your testimony you stated that you felt the Institute played an important part in revamping the rules and regulations relative to the control of the industry. I think the words you used were that you felt that the regulation of the industry should be adapted to modern industrial practices. Can you give those of us who know nothing about the regulations that are imposed some idea as to just what sort of changes the Institute felt were necessary?

Dr. DORAN. The Alcohol Tax Unit of the Treasury Department indicated that they proposed to propose to Congress a revision of some of the statutes governing liquor which they felt were inefficient, added to their administrative costs, and had no particular relation to the proper supervision of a modern industrial alcohol plant or distillery. We indicated that we would be very glad to give them the benefit of our best view as to how certain statutes, which as I say were drawn back in the seventies, could be revised in line with modern practice, for their benefit even more than ours.

Mr. O'CONNELL. Dr. Doran, referring again to the question of taxes, I take it that it is clear that from the point of view of the industry and the Institute, that any tax legislation, Federal or State, which would be in the nature of an increase of existing taxes, would be a law which would tend to encourage bootlegging and at least incidentally reduce or increase the price of whisky, and in that respect be contrary to the best interests of the Institute and the industry. Is that a fair statement?

Dr. DORAN. Not entirely. We have always felt—at least I did—that there was an optimum point at which the States and the Federal Government could collect the maximum of revenue with a minimum of trouble. It just so happens that most of the States have enacted a tax of \$1 per gallon which, added to the Federal tax of \$2.25 per gallon, makes \$3.25. We have felt that any system of taxation where a radical increase beyond that is proposed would cause difficulty. The Federal statistics on changes of rates of tax for the last 75 years are very eloquent on that point. We also felt that if the States levied as nearly as possible a uniform rate it would prevent a great deal of cross-border trouble which would aggravate the States themselves. In other words, a rate of 80 cents here and \$1.20 there means that the border will have difficulty, even though \$1 might be perfectly all right, or 80 cents. Our position has always been that the optimum rate is a proper rate and as nearly a uniform rate as possible is in the interest of all.

Mr. O'CONNELL. Would it be fair to say from what you have said that you feel that an optimum rate would be the present Federal tax plus \$1 tax by each State?

Dr. DORAN. Well, I believe experience of the last 5 years has shown that that is working out in a quite satisfactory manner.

Mr. O'CONNELL. Then would it also be fair to say—

Dr. DORAN (interposing). Some people think it ought to be higher, some people think it ought to be lower, but it is my experience, my judgment, that the State officials and the Federal officials are operating very satisfactorily on that approximate rate.

Mr. O'CONNELL. Would it be fair to say that were the States, any State, or the Federal Government to propose legislation substantially increasing the present rates of tax on liquor, it would be the feeling of the industry that it would be their duty to oppose such legislation?

Dr. DORAN. It would be the duty of the industry not to oppose it, but to inform the proper authorities as to what effect increases have practically had on the Federal revenues for the last 75 years, a matter merely of statistics.

Mr. O'CONNELL. I think if I reframed my question we would probably find that we are not very far apart in the effect of any such proposal.

Mr. BUCK. Doctor, did you mean to say that a great majority of States now have \$1 tax a gallon?

Dr. DORAN. Yes. That seems to be quite the prevalent rate. There is a little variation. There are one or two States out of line.

Mr. BUCK. Which States?

Dr. DORAN. New York, for example, has a dollar.

Mr. BUCK. What other States?

Dr. DORAN. Ohio has the equivalent of a dollar; Wisconsin has a dollar; Minnesota has a dollar; Kentucky has a dollar and four cents.

Mr. BUCK. That is only five or six.

Dr. DORAN. Well, if I had the list I could read them off to you, Mr. Buck. I am not a statistician.

Mr. BUCK. The other point I observed in your statement is that the statistics speak eloquently to the point that the optimum of tax has been reached. Did you have that opinion at the time of the last Congress when they added 25 cents?

Dr. DORAN. I wouldn't want you to think that I answered it exactly in that fashion. The statistics show that each time since the Civil War that the Federal Government has made an increase of tax, has provided for an increase of tax, the revenues have dropped off; conversely, each time the tax has been lowered the revenues have increased. It is a matter of statistics.

Mr. BUCK. Let's take that up for a moment. I mean that is news to me and I would like to have a reference to those statistics.

Dr. DORAN. I'll be glad to give them to you because they are culled from the reports of the Treasury Department.

Mr. BUCK. How many times has the tax on liquor been changed since the Civil War?

Dr. DORAN. Perhaps 30—at least 15 times.

Mr. BUCK. What was the tax in 1917?

Dr. DORAN. In 1917? It seems to me it was \$2.20, and then I believe they put on a wartime prohibition tax of \$6.40, but of course that was not what they would call a going normal tax; it was a very unusual condition.

Mr. BUCK. Let's take the basic tax of 1914.

Dr. DORAN. That was \$1.10.

Mr. BUCK. \$1.10 a gallon?

Dr. DORAN. That is right.

Mr. BUCK. What other fundamental changes have been made in the rates of Federal tax on whisky?

Dr. DORAN. The tax was \$2 in the Civil War, dropped to 50 cents, went up to 70 cents.

Mr. BUCK. Never mind; begin with 1916 or 1914.

Dr. DORAN. 1914, \$1.10.

Mr. BUCK. All right; now it is what?

Dr. DORAN. Now it is \$2.25.

Mr. BUCK. Do you mean to tell me that we got more revenue in 1914 from tax on liquor than we are getting now?

Dr. DORAN. 1914? That I can't say, Mr. Buck. I do not think we did in 1914.

Mr. BUCK. Wouldn't that contradict your opinion?

Dr. DORAN. Not at all. If this tax wasn't as high as it was, we would get more revenue right now, because consumption per capita is very substantially less than 1914.

Mr. BUCK. Wait a minute. There have been two fundamental changes in Federal taxes since '14, we will say. In '14 the tax was \$1.10 a gallon. Is that right?

Dr. DORAN. That is right.

Mr. BUCK. All right. Then it was stepped up to \$2 when?

Dr. DORAN. I think it went up to \$2.20 about the time we got in the war. I don't want to quote exact dates.

Mr. BUCK. That was on during prohibition period?

Dr. DORAN. No; 1917. The Food Control Act was operating and distilling ceased, and the Congress enacted the War Revenue Act and raised the tax, it seems to me, to \$3.20 or \$6.40, some very high rate, but a war tax.

Mr. BUCK. Let's take out the war-tax period and take normal-period taxes. It was \$1.10 in 1914; it was raised to \$2.20.

Dr. DORAN. That was, you might say, a measure taken—we were not actually in the war, as I recall it, but the tariff had dropped off alarmingly, naturally, due to loss of trade, and the Congress raised the internal rate on spirits. But I consider that period wholly abnormal and not to be taken as indicating what the experience would be over a considerable period of time, under reasonably normal conditions.

Mr. BUCK. All right; I am trying to understand because I am interested in that. In 1914 the tax was \$1.10. The Federal tax now is \$2.25, is it?

Dr. DORAN. That is right.

Mr. BUCK. As a matter of fact, don't we receive more revenue now than we did in 1910?

Dr. DORAN. I think we do, and I think we ought to receive 30 percent more than we do. I think you will find out, Mr. Buck, if you will consult the records of the Alcohol Tax Unit, that the revenue agents right today are seizing a far greater number of distilleries, illicit distilleries, than they did in 1914, all of which revenues should have gone to the Federal Government.

Mr. BUCK. I just want to say to you personally, I think that is a popular or catchy argument.

Dr. DORAN. It isn't; it is a fact, and the figures show it.

Mr. BUCK. That it appeals to the public, but has no merit to statistics.

Dr. DORAN. I wouldn't say what the merit is; I will say that the statistics show it.

Mr. O'CONNELL. Dr. Doran—

Mr. BUCK. Wait one minute, if you please, sir. The tax in 1914 was \$1.10 a gallon. The tax today is \$2.25 per gallon. Now, you will admit that we are consuming as much whisky now as we were in 1914.

Dr. DORAN. Not legal whisky, per capita, no, sir. We are not consuming per capita the amount of whisky legally, tax-paid, we were in 1914.

Mr. BUCK. Let's keep the per capita out.

Dr. DORAN. Well, how else can you figure this? The country has grown from 100,000,000 to 130,000,000.

Mr. BUCK. Keep the per capita out for the moment. In 1914 we were consuming approximately sixty-odd million gallons a year.

Dr. DORAN. No, no; about 135,000,000. There might have been that much of straight whisky withdrawn for tax payment, but there was a great deal of blended whisky sold, and the total consumption in 1914 approximated 135,000,000 gallons. Last year, as I recall the figure, it hardly reached 110,000,000 gallons; so when I say that the country is not consuming as much per capita as it did in 1914, the figures are very, very plain.

Mr. BUCK. I might say there, too, that the price of whisky to the consumer in 1914 was about \$3 a gallon, wasn't it?

Dr. DORAN. No; it was more than that. Many other things were cheaper in 1914. Whisky wasn't the only one.

Mr. BUCK. We are talking about consumer consumption and costs, though. Do you think the consumer would use more whisky now if the price to him was down to where it was in 1914?

Dr. DORAN. No; I don't think it would make any difference; but what I was trying to point out, Mr. Buck, is this: When the Treasury Department seizes a very substantially greater number of illicit distilleries in 1938 than they did in 1914, I don't say it argues that we are drinking actually less per capita, but I do say it is very conclusive on the point that we are drinking less legally tax-paid liquor per capita.

Mr. BUCK. Well, you don't measure consumption by the number of stills confiscated, do you? You measure that by withdrawals from the warehouse.

Dr. DORAN. The fact that 12,000 illicit distilleries were seized last year indicates that at least some liquor was manufactured and sold from those stills.

Mr. BUCK. That might go to the point that we now have a much more efficient Treasury service that catches distilleries, but I don't see that that has anything to do with the amount of whisky consumed.

Dr. DORAN. I think it has everything to do with it; and furthermore, the Treasury has always been efficient.

Mr. FERGUSON. Don't you think that the high price of whisky has a lot to do with bootlegging?

Dr. DORAN. Yes; I think that is quite true, Commissioner.

Mr. BUCK. That is all.

Dr. DORAN. Thank you.

Acting Chairman WILLIAMS. Call your next witness.

Mr. BUCK. Dr. Wesley Sturges.

Acting Chairman WILLIAMS. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dr. STURGES. I do.

**TESTIMONY OF DR. WESLEY A. STURGES, EXECUTIVE DIRECTOR,  
DISTILLED SPIRITS INSTITUTE, INC., WASHINGTON, D. C.**

Mr. BUCK. Doctor, state your name and business, please, sir.

Dr. STURGES. My name is Wesley Sturges, executive director of the Distilled Spirits Institute.

Mr. BUCK. How long have you been executive director of the Institute?

Dr. STURGES. Since October 22, 1938.

Mr. BUCK. What was your business before becoming connected with the Institute?

Dr. STURGES. Professor of law, School of Law, Yale University.

Mr. BUCK. Yale University?

Dr. STURGES. Yes, sir. I am still.

**RECEIPTS AND DISBURSEMENTS OF DISTILLED SPIRITS INSTITUTE**

Mr. BUCK. Doctor, one point the committee asked Dr. Doran, and he wasn't able to give them the information. Will you give the committee the total receipts of the institute for each year from 1934 to 1938?

Dr. STURGES. I will: 1934, \$206,153.46; 1935, \$142,556.15; 1936, \$225,137.87; 1937, \$349,330.85; 1938, \$323,440.27.

Mr. BROWN.<sup>1</sup> What was 1934 again?

Dr. STURGES. \$206,153.46.

Mr. BUCK. Do you have the total, Doctor?

Mr. STURGES. The total I have here is \$1,246,618.60.

Mr. BUCK. What have been its expenditures during that period? Give it by years; it will be all right if you have it set up that way.

Dr. STURGES. Statement of disbursements: Total, 1934, \$111,832.24; 1935, \$211,357.15; 1936, \$209,557.50; 1937, \$395,124.59; 1938, \$308,319.84.

Mr. BUCK. That constitutes the official expenditures of the Institute in their entirety in those periods?

Mr. STURGES. I cannot state of my own knowledge except for 1939, but I have reason to believe this record is correct.

Mr. BROWN. Have you the total expenditures there?

Dr. STURGES. Mr. Brown, I do not have a total of them.

Mr. BUCK. How large a staff does the Institute now maintain?

Dr. STURGES. The personnel now consists of 21 persons.

Mr. BUCK. What is the cost of the personnel per year?

Dr. STURGES. As I have it set up here, do you wish it for each year?

Mr. BUCK. Yes; if you have it.

<sup>1</sup> Mr. J. P. Brown, attorney, Federal Alcohol Administration.

Dr. STURGES. Under the designation of "Salary and expense allowance of the President," Mr. William Forbes Morgan, in 1937 only, \$18,055.56. For all 5 years, "Salaries of executives," 1934, \$51,263.37.

Mr. BUCK. How many executives?

Dr. STURGES. I do not know of my own personal knowledge in 1934; 1935, \$50,000; 1936, \$50,000; 1937, \$67,044.98; 1938, \$73,269.20.

The next designation is "Salaries of clerical and other employees": 1934, \$13,463.50; 1935, \$35,918.33; 1936, \$37,321.43; 1937, \$72,279.42; and in 1938, \$49,862.14.

Mr. BUCK. Would that take care of all the salary expenses, those figures that you have read?

Dr. STURGES. I believe it does.

Mr. BUCK. What other expenses would the Institute have in operating?

Dr. STURGES. I shall be very glad to read them. Do you wish them for each year?

Mr. BUCK. Yes; if you can give them.

Dr. STURGES. "Office expenses": The first designation is "Rent": 1934, \$4,160; 1935, \$6,000; 1936, \$6,396; 1937, \$15,025.24; 1938, \$8,658.

Under the second designation, "Office alterations," there is an entry for only the year 1937, \$3,065.44.

Under the next designation, "Office equipment purchased": 1934, \$4,099.40; 1935, \$1,082.25; 1936, \$747.10; 1937, \$9,555.59; 1938, \$264.76.

Under the next designation, "Telephone and telegraph": 1934, \$5,185.34; 1935, \$9,428.69; 1936, \$6,098.67; 1937, \$9,160.78; 1938, \$3,330.38.

The next designation is "Postage": 1934, \$1,759.50; 1935, \$3,997.58; 1936, \$2,949.56; 1937, \$5,217.13; 1938, \$5,592.30.

The next designation, "Printing, stationery, and supplies": 1934, \$2,431.86; 1935, \$3,605.47; 1936, \$2,192.04; 1937, \$6,663.56; 1938, \$10,332.15.

The next designation, "Moving expenses, New York to Washington": An entry only for the year 1937, and the amount, \$2,146.66.

The next designation, "Miscellaneous": For the year 1934, \$1,166.44; 1935, \$1,338.30; 1936, \$2,348.60; 1937, \$3,652.66; 1938, \$2,933.39.

The next designation, "Traveling expenses"; a subdivision of that, "Directors' and committee members": There is no sum entered for the year 1934; 1935, \$1,807.28; 1936, \$3,399.81; 1937, \$6,237.71; 1938, \$3,495.50. "Other traveling expenses": 1934, \$6,694.81; 1935, \$12,221.71; 1936, \$10,494.03; 1937, \$23,736.15; 1938, \$19,881.

Under the designation "General expenses," first subdivision, "Insurance": 1934, \$43; no entry for 1935; 1936, \$96.29; 1937, \$195.10; 1938, \$454.85.

The next designation, "Taxes": 1934, \$43.40; 1935, \$186.77; 1936, \$859.08; 1937, \$3,174.14.

Mr. BUCK. What is that item, Doctor—"insurance"?

Dr. STURGES. "Taxes": 1938, \$4,654.52.

Mr. BUCK. Does the Institute pay Federal taxes? What kind of taxes would that be?

Dr. STURGES. I have had no personal experience.

Mr. HOWARD JONES (counsel, Distilled Spirits Institute). Social security, principally.

Dr. STURGES. The next entry, "Surety bond premiums": The first year is 1936, the amount, \$250; 1937, \$326.54.



The next designation, "Expenses of meetings": 1934, \$343.75; 1935, \$888.87; 1936, \$683.48; 1937, \$1,686.93; 1938, \$1,243.87.

The next designation is "Accounting and organization survey fees": The first entrance is for the year 1935, the amount, \$775; 1936, \$1,750; 1937, \$1,889.05; 1938, \$1,650.

The next designation, "Legislative"—

Mr. DAVIS (interposing). Before you leave that, what did that service cover?

Dr. STURGES. Of my own knowledge I know of only one thing, Judge, and that is of the auditing charge of our books at the close of the fiscal year. That came to my attention, and I cannot break that down to tell you what the exact amount of it was or if we have paid the bill yet.

The next designation is "Legislative reporting service": For the year 1934, \$1,435; 1935, \$19,239.31; 1936, \$6,430.01; 1937, \$6,411.06; 1938, \$3,344.75.

The next general designation is "Other expenses," and the first subdivision under that is "Special investigations": 1934, \$13,378.98; 1935, \$12,948.20; 1936, \$8,333.67. That is the last year for any entry under that designation.

The next designation, "Institute advertising": Entry for the first time in the year 1935, \$30,840.56. There is no amount for 1936; for 1937, \$2,819.26; for 1938, \$625.

The next designation, "Advertising and exhibitions": One entry for the year 1936, \$33,751.22.

Mr. BUCK. I didn't get that.

Dr. STURGES. It is under the designation, Mr. Buck, of "Advertising and exhibitions."

Mr. BUCK. What is the sum?

Dr. STURGES. \$33,751.22 for the year 1936, only for that year.

"Legal fees and expenses," the next designation: For the year 1934 \$5,188.89; 1935, \$6,042.80; 1936, \$12,544.30; 1937, \$71,379.78; 1938, \$24,691.07.

"Legislative committee expenses" is the next designation: For 1 year only, 1936 \$6,835.20.

The next designation, "Clipping service": The first entry is for the year 1936, the amount, \$6,679; 1937, \$6,198.84; 1938, \$283.20.

"Organization expenses" is the next entry: For the year 1935 only and the amount, \$15,000.

The next designation, "Education and publicity": First entry for the year 1936 \$18,239.76; 1937, \$57,045.01; 1938, \$56,151.71.

"Membership and dues," the next designation: An entry for the year 1934 only, \$1,175.

"Books and publications" is the next entry, and the first entry is for the year 1936, the amount \$1,236.46; 1937, \$2,158.02; 1938, \$1,221.80.

The next designation, "Lease of New York office space less receipts from sublease": The entry appears for the year 1938 only, the amount \$7,421.87.

The next designation, "Expenses of miniature distillery exhibit," the entry for the year 1938 only, and the amount \$3,108.38.

The next designation, "Technical consultant services," the first entry for the year 1938, the amount \$5,000.

The next entry is a gift to Mrs. Sarah Morgan and the entry is for the year 1938, the amount is \$20,000.

The next and final entry is "Settlement of a salary claim, 1938 only," and the amount, \$850.

Mr. BUCK. Does that statement you have read balance with the receipts?

Dr. STURGES. Approximately, Mr. Buck. That is, the expenditures for 1938 were \$308,319 in round figures, and the reported income for 1938 was \$323,000, in round numbers.

Mr. BUCK. I wonder if you could leave that to be filed in the record.

Dr. STURGES. May I have permission to file another copy? I am not sure I have an extra one.

Mr. BUCK. It would save anyone from having to read all this, if they could have that set up as you have it.

Dr. STURGES. I shall be very pleased to supply you with a copy.

Mr. BUCK. I will ask the committee if it may be submitted as an exhibit to be printed.

Acting Chairman WILLIAMS. It may be received.

(The tabulation referred to was marked "Exhibit No. 429" and is included in the appendix on p. 2718.)

Mr. BUCK. Doctor, you are new in the whisky business, so to speak?

Dr. STURGES. Exceedingly so.

Mr. BUCK. You had no particular connection with the business until you got into the Institute and were appointed director in 1938?

Dr. STURGES. That is correct.

Mr. BUCK. So you wouldn't know of your own knowledge a great deal about what happened in the Institute before that time?

Dr. STURGES. That is true.

Mr. BUCK. These figures that you have presented here have been made up from the books and records of the Institute as you found them?

Dr. STURGES. That is true.

Mr. BUCK. And you furnish them on that basis?

Dr. STURGES. That is correct.

Mr. BUCK. Now, what employees do you presently have in the Institute? What are their positions, their duties; how do they function?

Dr. STURGES. We have what is entitled a public relations director, secretary and general counsel, a director of research, statistician, four field men, an organizer, attorney.

Mr. BUCK. How many does that make?

Dr. STURGES. Twenty-one.

Mr. BUCK. Twenty-one all told?

Dr. STURGES. That is correct.

Mr. BUCK. How many members do you have?

Dr. STURGES. Of the Institute?

Mr. BUCK. Yes, sir.

Dr. STURGES. The members of the Institute are divided into two classes, the so-called distiller group and the associate group.

Mr. BUCK. How many distillers?

Dr. STURGES. The distillers are 35.

Mr. BUCK. Thirty-five distiller members?

Dr. STURGES. That is correct.

Mr. BUCK. What is the present method of assessing dues?

Dr. STURGES. Just at the moment the basis of figuring the dues is on the stripped sales, sales of the several members, stripped of any taxes, and the rate per thousand dollars of such sales is \$2.

Mr. BUCK. You get \$2 per thousand for all sales by distilleries?

Dr. STURGES. That is the temporary present set-up.

Mr. BUCK. And was that in effect last year when your revenue was \$223,440?

Dr. STURGES. I believe that the system changed during the last year, if you mean 1938, from an assessment of some rate which I do not know on a production basis, to the sales basis. I think the system of assessment was changed during the year 1938 from a production basis to the strip-sales basis.

#### MEMBERSHIP AND THEIR CONTRIBUTIONS TO THE INSTITUTE

Mr. BUCK. Is the number of members that you have mentioned, 32, based upon corporate units or distilleries?

Dr. STURGES. Those are individual units, either corporate or otherwise.

Mr. BUCK. The point I am getting at is this. Take for illustration the Seagram Co., that is one unit?

Dr. STURGES. Seagram is counted but once.

Mr. BUCK. One time?

Dr. STURGES. That is correct.

Mr. BUCK. And the same is true of National?

Dr. STURGES. That is right.

Mr. BUCK. And so on?

Dr. STURGES. Yes.

Mr. BUCK. Now, Doctor, will you explain to the committee your duties as director of the Institute under its present policies?

Mr. DAVIS. Mr. Buck, before you leave that, Dr. Sturges referred to associate members. How many associate members are there and who are they with respect to the industry?

Dr. STURGES. There are 15 in number, and most of those are warehousing people.

Mr. BUCK. Would you file for the record a list of all your members?

Dr. STURGES. I would be very happy to.<sup>1</sup>

Mr. BUCK. You might read the list of distilleries for the benefit of the committee here.

Dr. STURGES. You want just the names of the organizations, not the executive officers?

Mr. BUCK. Yes.

Dr. STURGES. The Baltimore Pure Rye Distilling Co., Brown-Forman Distillery Co., A. & G. Caldwell, Inc., California Mission Vintage Co., B. Cribari & Sons, Inc., Cucamonga Valley Wine Co., Felton & Sons, Inc., The Fleischman Distilling Corp., Frankfort Distilleries, Inc., Glenmore Distilleries Co., The Golden-Rossell Co., Hood River Distillers, Inc., Hunter Baltimore Rye Distillery, Inc., Laird & Co., The Siegfried Loewenthal Co., Lord Stirling Distilleries, Inc., L. M. Martini Grape Products, Merchants Distilling

<sup>1</sup>Dr. Sturges submitted a list, dated July 1, 1939, of the active and associate members of Distilled Spirits Institute, Inc. It was marked "Exhibit No. 1172" and is included in the appendix on p. 2748.

Corp., H. McKenna, Inc., National Distillers Products Corp., Old Medford Rum Distillery, Inc., Old Mountaineer Distilling Co., Padre Vineyard Co., Pennsylvania Distilling Co., Inc., San Gabriel Vineyard Co., Schenley Products Co., Seagram Distillers Corp., Speas Manufacturing Co., Virginia Distillery Corp., Hiram Walker-Gooderham & Worts, Ltd., The Frank L. Wight Distilling Co., Wilson Distilling Co., Inc.

Mr. BUCK. How many of those are whisky distilleries?

Dr. STURGES. Seventeen, as I count them.

Mr. BUCK. You have 17 members who are whisky distillers out of the total of 32?

Dr. STURGES. Yes.

Mr. BUCK. Now as Dr. Doran testified, the Institute is divided in sections, that is whisky section, brandy section, and so forth. Is that the present organization?

Dr. STURGES. That is true today, for purposes of the board of directors.

Mr. BUCK. You have 17 distilleries out of a total, according to our figures, of 97 in operation. Who are the members of your board of directors, and what whisky distillery companies do they represent?

Dr. STURGES. Whisky distilleries, only?

Mr. BUCK. Yes, sir.

Dr. STURGES. Do you wish me to read them?

Mr. BUCK. Yes; the individual members and the whisky distillers they represent.

Dr. STURGES. The president is Mr. Owsley Brown, president of the Brown-Foreman Distillery Co.

Mr. DAVIS. It would be sufficient to just print those in the record.

Mr. BUCK. It is satisfactory if you have the whisky separated from the general. I am afraid that isn't the set-up. I notice from his papers he has all distilleries and we are concerned only with whiskies. It won't take a moment, I guess.

Dr. STURGES. Mr. James F. Brownlee, president of Frankfort Distilleries, Inc.; Mr. Lester E. Jacobi, president of the Schenley Distillers Corporation; Mr. M. J. MacNamara, vice president, National Distillers Products Corporation. I don't know whether Merchants Distilling is whisky or not.

Mr. BUCK. Yes; it is.

Dr. STURGES. Frank Mayr, Jr., Merchants Distilling Corporation; Mr. F. R. Schwengel, vice president, Seagram Distillers Corporation; Mr. I. Strouse, vice president, the Baltimore Pure Rye Distilling Co.; myself—

Mr. BUCK (interposing). You are not a distiller.

Dr. STURGES. I am a member of the board of directors.

Mr. BUCK. I mean just those who are distillers.

Dr. STURGES. Mr. F. B. Thompson, president, Glenmore Distilleries Co.; Mr. Howard R. Walton, vice president, Hiram Walker-Gooderham & Worts, Ltd.; M. R. Weiner, president, Pennsylvania Distilling Co.; Mr. Frank L. Wight, vice president, the Frank L. Wight Distilling Co.

Mr. BUCK. Is that a subsidiary of one of the Big Four?

Dr. STURGES. No.

Mr. BUCK. What percent, or what part, of the last year's income, \$323,440, was paid by Schenley, National, Walker, and Seagram's?

Dr. STURGES. I can't say of my own personal knowledge, but my estimate is between two-thirds and three-quarters of the total income.

Mr. BUCK. Then the four corporations which I have mentioned, whisky-distilling corporations, paid between two-thirds and three-fourths of the total income of the institute.

#### DUTIES OF DIRECTOR AND OTHER OFFICERS

Mr. BUCK. What are your specific duties as director, Doctor, under the policy of the organization?

Dr. STURGES. My duties are determined by the articles of incorporation of the Institute and by my contract with the Distilled Spirits Institute, and elaborating upon that, it will be the policy of the Institute to carry on its business services that it has performed heretofore, and it will also undertake to carry out regulation of the industry according to the provisions of the articles of incorporation, namely, to induce law enforcement, both Federal and State, with respect to itself and with respect to the industry generally so far as seems feasible.

Mr. BUCK. Well, is that as specific as you can make it to the committee?

Dr. STURGES. No; it is not.

Mr. BUCK. Would you care to make it more specific? I take it the committee was interested in that.

Dr. STURGES. So far as what has gone on before is concerned, I can only speak from information. One line of activity is the rendition of services to the members of the Institute and on occasion, like services are rendered to non-members. Those services are rather varied. In one particular it is the supplying of information with respect to legislation that is pending, with respect to business conditions in the industry, in which there may be a general interest. So far as public relations are concerned, we publish what is known as a Distillers Bulletin. That publication is very largely comparable to a literary digest of expressions of views of editors of things that are deemed to be, by the public relations director, of current interest to our members. So far as our counsel is concerned, he is engaged in interpretation of the laws for us, for the Institute, in order that the Institute may advise or help out one or more of our members.

In that connection possibly I may give you an illustration. A small distiller on the Pacific coast wished to change the practice that has heretofore existed with respect to bottling—and I do not understand the technicalities of bottling—which under the existing regulations was not permissible. We had two or three similar requests. We took that request to the head of the department of the Government who has charge. I believe in this instance it was Mr. Berkshire of the Alcohol Tax Unit. The matter was laid before him for his consideration as to whether an amendment of the regulations would be permitted. It was taken under advisement by the deputy. After about 3 or 4 weeks, as I recall, the matter was passed upon. The request for the change was granted and the regulations were amended and sent out.

A very technical field of regulations covered in the Gauger's Manual—which I have not yet had opportunity to read—relates to the conduct by the distiller of his business in his physical plant. These regulations and the amendments that would seem to be desirable to the existing manual have been a matter of conference between members of the Alcohol Tax Unit and other proper authorities; and I understand that such a manual in its amended form is soon to be published, if it has not already been published. I instance those as two illustrations of the type of service that is offered of a more or less helpful nature to particular individuals, possibly to groups of individuals who are our members.

So far as the conception which I have of what the function of the Institute shall be under my contract with the Institute and carrying out the articles of incorporation of the Institute, I am very much concerned with two considerations: The first is the matter of the competitive practices within the distilling industry itself. I share the conviction of some of the witnesses who have already appeared here that the industry is exceedingly competitive and that it is going to continue to be exceedingly competitive; that it is going to continue to be exceedingly competitive notwithstanding the fact of the existence of the four companies that have been recurringly referred to. The competition is so excessive in my opinion that at times it leads to unfortunate business practices, and I measure the unfortunate aspect of those practices by the impact upon the human beings that are involved, particularly the salesmen in the field. In carrying out that policy the Institute has already closed what I presume to call, for lack of a better name, a code, with the administrative authority, the Liquor Control Authority of the State of Ohio. That code manifests the conclusions of what the administrator in the State of Ohio thought should be done to insure compliance with the local laws of the State of Ohio, regulating the sale of alcoholic beverages, and what should be done as a matter of sound business practice also in Ohio.

That code, after conference with the administrator, has been presented to the board of directors and has been in effect now nearly a month.

Mr. BUCK. Do you assist the State of Ohio in the promulgation of it in the formation of it, and so forth?

Dr. STURGES. Yes.

Mr. BUCK. You do that on behalf of 17 distilleries of the United States?

Dr. STURGES. No. I do it on behalf of the members of the Distilled Spirits Institute for whom only am I authorized to act.

Mr. BUCK. They are 17.

Dr. STURGES. That is true, and any other distillers and their representatives, not members, are of course entitled to share in the program.

Mr. BUCK. Suppose they disagree with your philosophy in these situations?

Dr. STURGES. It isn't a matter of philosophy, Mr. Buck. It is a matter of practice which the local authority says for his particular State ought to be in effect, and the practical situation is this, as I see it with my experience limited as it is: That these details of com-

petitive practice run out into human activity so remotely and in such fineness that if the political state undertakes to enforce compliance, the enforcement program will be largely a sampling program, and largely a matter of enforcement of particular instances from time to time; whereas if the industry which is being regulated, the individuals who are being regulated, are also assuming a correlative responsibility, I think the discipline within the industry is very helpful to the administrator. And these terms of the code, if I may call it that again, are such as are laid down by the administrator of Ohio.

Mr. BUCK. My point is simply this: Here you are in Ohio, we will say, consulting with the State authorities there in respect to the formulation of a certain philosophy in the law in the distribution, and so forth, of whisky. With all your resources and whatever they may be, you represent only 17 out of a total of 97 distilleries. Who represents the other 80?

Dr. STURGES. The administrator.

Mr. BUCK. The administrator of the State of Ohio?

Dr. STURGES. That is true.

Mr. BUCK. He is representing the State and the consumer?

Dr. STURGES. With respect to these other nonmembers, as well as the members, he is concerned in getting as full and faithful compliance with the prescriptions that are set forth in the code as is possible.

Mr. BUCK. Yes; but you are assisting him, as I understand it, in writing a certain philosophy in your code.

Dr. STURGES. I don't know what you mean by a certain philosophy. I know what the provisions of the code are.

Mr. BUCK. Well, whatever they be, you are there participating in the crystalization of these principles into a form of law on behalf of 7 distilleries, and the other 80 distilleries are not represented in the proceedings except, as you say, through the administrator of the State of Ohio. Is that the situation?

Dr. STURGES. So far as the Institute's activities are concerned with this code, it is to try to cooperate with the public authorities of the State of Ohio in improving, according to the yardstick prescribed by the administrator of the State of Ohio, the practices of the distillers, those who are members of the Institute quite as impartially as those who are not members.

Mr. DAVIS. Has that been approved by the State of Ohio authorities?

Dr. STURGES. By the administrator; yes, sir.

Mr. DAVIS. Will you file a copy of it for the record?

Dr. STURGES. Yes, sir.

(The code referred to was received in evidence and marked "Exhibit No. 430" and is included in the appendix on p. 2719.)

Mr. BUCK. Does this proposed code become law under the laws of the constitution in the State?

Dr. STURGES. That is the law so far as the administrator and the administration of the Liquor Control Act of the State of Ohio is concerned.

Mr. BUCK. Is it enforceable in the courts?

Dr. STURGES. I suspect that it is.

Mr. BUCK. All right; we started off on this trying to have the work of each of the executive officers stated. What, for instance, are the duties of your public relations men?

Dr. STURGES. Do you wish me to complete my own conceptions of my own duties?

Mr. BUCK. I don't know that we are so much interested—personally, I am not; I don't know about the committee—in the philosophy of the thing. I simply want the mechanics of it. What does he do? What is he charged with doing?

Dr. STURGES. The public-relations director has charge of the publication of the Distillers' Bulletin; he also has charge of the handling of news releases which emanate from the Distilled Spirits Institute. He has charge very frequently of assisting me in trying to write an article or speech, particularly a speech; he is also concerned with our research in directing the scope and direction of the research, whether it may be in the field of revenues or whether it may be in the field of laws, or what.

Mr. BUCK. What is his salary?

Dr. STURGES. Mr. Chairman, I believe that I should like to be excused from giving the salaries of any of the staff in public. I would be very pleased to submit them to the committee in confidence. The reason is necessarily protective. My salary was published in the newspapers at the time I was appointed. It only means more and more salesmen and that sort of thing. I am not reluctant to make available for the confidential use of the committee the salary of any member of the staff of the Institute. I wish to be excused from submitting it publicly.

Acting Chairman WILLIAMS. That will be a matter for the committee to consider. I can't pass on that myself.

Does the committee desire to consider that now at this time?

Mr. O'CONNELL. Mr. Chairman, of course, I can't speak for the other people here, but it seems to me that the request of Dr. Sturges is entirely reasonable. It is information that I think the committee might like to have. I am not sure to what use it should be put, I have no feeling. I don't know about the other men here, but I have no feeling if it becomes an essential part of the record.

Acting Chairman WILLIAMS. I can see no use of it at all, unless it is part of the record itself. I personally don't care anything about it.

Dr. STURGES. I am very glad to submit it to each of you, mail you a statement, or to submit it to you as a group in confidence.

Acting Chairman WILLIAMS. We will withhold that matter for the present, and it will not be admitted at this time.

Dr. STURGES. It will be available to the committee at your pleasure at my office.

Mr. NATHAN. What are the duties of the organizer?

Dr. STURGES. The organizer is associated with the other line of activity in the field of law enforcement, in which I am particularly interested. The impression I have had, and the complaints I have had about the industry, seem to center not inconsiderably around what the public sees by way of the behavior of the retail outlets, in particular the "on premise," the tavern keeper. I have complaints coming to me all the time of children's cocktail parties in hotels and in taprooms and so forth, and that there are sales to drunks contrary



to law; that there are sales after hours, and that the whole thing brings an unfavorable reputation to the industry and its composite set-up. And, that isn't a criticism merely of the retailer as an offender, but of the entire industry.

I feel that the industry, as a matter of decency, or if others wish to say so, as a matter of self-protection, assurance of its security against the prohibition movement, should take measures to try to remedy that situation.

Mr. BUCK. What authority does the Institute have to regulate such things as hours and so on, as you have mentioned?

Dr. STURGES. Of the retailer?

Mr. BUCK. Yes.

Dr. STURGES. None whatsoever, Mr. Buck, and I would like to continue my explanation.

What is a fit, reasonable method of proceeding to accomplish that end of working in the retail field, comparable to what possibly we are doing in the distiller field? After no little deliberation I decided upon a plan, whereby I would try to approach people who were concerned that repeal should work and that we shouldn't get back to the deplorable conditions that are supposed to have existed prior to prohibition for their cooperation, and that plan has been developed to this point, that in Connecticut I assisted in the organization of what is called the Connecticut Citizens Committee.

That committee has articles of membership which provide three general lines of interest on the part of the committee. The one is to concern itself with the types of persons who apply for the granting of a permit, apply to the liquor-control commission. In Connecticut an applicant wishing to become a permittee to sell alcoholic beverages must file his application and that application is published for 3 weeks before it comes on for public hearing. This committee is concerning itself now with who is trying to get into the business; who, as measured by the prescriptions of the liquor control act as to the qualifications of permittees.

The second general activity of that committee, as set forth in its articles of membership, is to concern itself with stimulating the public authorities, the liquor-control commission, police authorities, the health authorities, even the fire—

Mr. BUCK (interposing). Doctor, may I interrupt you there? You say the Institute is concerning itself with who may get into the industry under the Liquor Control Act. What do you mean by that?

Dr. STURGES. It isn't the Institute; these are terms in the articles of membership in the committee.

Mr. BUCK. What do you mean by the Liquor Control Act?

Dr. STURGES. Of the State of Connecticut.

Mr. BUCK. You are talking about something that happened in Connecticut before you became a member or afterward?

Dr. STURGES. No; I am talking about the second part of my program of law enforcement relating to the behavior of retail outlets and the suggestion of the organization of the Connecticut Citizens Committee, and what the articles of membership of that committee, the Connecticut Citizens Committee, provide.

Mr. BUCK. When did that happen? Did you do that since you have been director of the Institute?

Dr. STURGES. That is correct.

Mr. BUCK. When was it consummated?

Dr. STURGES. The committee perfected its organization early in January—I should say about the 10th of January.

Mr. BUCK. And what is the purpose of the committee? How does it arise?

Dr. STURGES. By the articles of membership that I have just been referring to, the first point of interest to the committee under its articles is to concern itself with the persons who make application to be granted a permit.

Mr. BUCK. Under the State laws of Connecticut?

Dr. STURGES. Under the State laws of Connecticut.

Mr. BUCK. And you are interested in that?

Dr. STURGES. And I will tell you in just a moment how.

The other interest, the second interest of the committee, as set forth in its articles of membership, is the matter of stimulating enforcement officers of the State; and the third general interest of the committee is to give study to the Alcohol Control Act of the State, and in the light of their experiences on the other two points that I have mentioned, determine whatever they think are desirable amendments.

Now, in order to facilitate that committee's operations, the Distilled Spirits Institute will make a contribution, just the same as it would make a contribution to the Community Chest. The Connecticut Citizens Committee, which I am informed has about 1,000 members throughout the State, ran for its president the president of an insurance brokerage concern that does business throughout the State, and members who are clubwomen, and businessmen who became interested in it. They have carried on the activities along three general points I have mentioned. I may say that they found that the activities of the police in the city of New Haven seemed to be so limited that by their own hired man, a sleuth for the particular occasion, they effected the revocation of 10 licenses in the first week they began their real operations. I am not particularly concerned with what the committee does in law enforcement generally, but I find that there is a very real interest in many, many people to have the liquor business, the retail field, carried on differently from what it seems to have been in some States.

Mr. BUCK. Doctor, may I ask you a few questions in a desire to straighten this out in my own mind?

We began with your duties, trying to find out specifically what your duties as director were. Then I asked you what the duties of the public-relations man were. You said to publish a digest, and certain other times; I forgot just what. What sort of digest is this? How is it published?

Dr. STURGES. The Distillers Bulletin, I believe I said.

Mr. BUCK. How often?

Dr. STURGES. It comes out weekly.

Mr. BUCK. What does it contain?

Dr. STURGES. I used by way of an analogy the Literary Digest. It is an abstract of editorials that we think will be of interest—

Mr. BUCK (interposing). You don't prophesy election results, do you. That was the Literary Digest. You have 17 whisky distilling members. You are publishing a digest for those 17.

Dr. STURGES. You mean the Distillers Bulletin, that goes to the trade press; it goes to the newspapers; it goes to our membership.

We have a mailing list of people that are either interested or curious about us, and I don't know whether it goes to the F. A. A.<sup>1</sup> or not. I expect it does, doesn't it?

Mr. BUCK. I don't know. That is why I asked you. I don't know about it.

What other activities. Do you visit State legislatures? Do you visit State control agencies? You gave us an illustration of what you did in Ohio, for instance, and you gave us an illustration of what you proposed to do in the State of Connecticut. Is that the extent of the Institute's activities? What else? Did you appear, for instance, in the State of New York?

Dr. STURGES. I appeared before the committee on taxation, a joint session of the committee on taxation and something else, some other committee, I have forgotten the name, with reference to the proposal to increase the excise tax of the State of New York from \$1 to \$1.50.

Mr. BUCK. That is one of the functions, too?

Dr. STURGES. That proved to be in that case.

Mr. BUCK. What other specific functions does the Institute have in relation to State legislatures, State control boards, and so on? What else, specifically, does it do?

Dr. STURGES. Well, Colonel Bullington gave you yesterday a sample, namely, the conferences, and there have been many of them—I have been in on the last two or three—relating to the conduct of the distilling business in the monopoly States, and questions that come up there, and those questions that involve the matter of the warranty to which he referred.

Mr. BUCK. Let me ask you this question, too. Do these other 80 distilleries that are not members of your Institute have any association that does similar things?

Dr. STURGES. There are associations of some of the distilleries down in Kentucky and the group over in Maryland also have an organization, the Maryland Distillers.

Mr. BUCK. Do you tie in with those organizations?

Dr. STURGES. Not in any way, if I understand your term; no.

Mr. BUCK. They consult you and you consult them.

Dr. STURGES. Yes.

Mr. BUCK. That is the way it operates.

Dr. STURGES. Of course, my hope is they will all come into the Distillers Institute. We are in that connection revising our schedule of dues so that they may, bringing the dues down to \$240 a year minimum, and arranging our dues on a surtax basis.

Mr. BUCK. Do you make any activity in the industry toward reducing the price of whisky to the consumer, for instance?

Dr. STURGES. No.

Mr. BUCK. What is your view of that question? Do you think that might be desirable?

Dr. STURGES. That is a very hard question for me to answer, but it is one about which I have thought. This liquor business appears to me to be considerably peculiar to itself, peculiar to itself with respect to its social implications, and one of the social implications the matter of increased consumption in my opinion is undesirable—not to increase the consumption above what I believe now exists.

<sup>1</sup> Federal Alcohol Administration.

The matter of the total consumption of the individual is a matter which I think is of very great social concern.

To reduce the price out of consideration for the consumer in order to increase consumption I think is a problem of serious consideration. I do, however, have the genuine feeling that the illicit liquor produced by bootleggers and the refills and dilutions that go on with on-premise permittees, gives the legal business an opportunity to expand its sales as soon as law enforcement is perhaps more substantial.

Mr. O'CONNELL. Dr. Sturges, when Dr. Doran was on the stand we had quite a bit of discussion about the price of whisky and the function of the Institute as regards price, and it was his position that so long as he was connected with the Institute, the Institute was not concerned in any way with price, insofar as price to the ultimate consumer is concerned. He I think to some extent varied that later in discussing the position the Institute would take as regards tax matters which might tend to increase the price. Could you clarify the position or the function of the Institute as regards the price of liquor to the consumer, whether it has an affirmative interest in that problem, and to what extent it uses its interest if it has one?

Dr. STURGES. So far as the merchandising practice is concerned, and so far as promotion from the Institute through my members or through my members and other distillers, as to what they should do with their prices, I should not concern myself. In other words, I don't feel that I am competent, nor am I competent by deriving a fixed conviction from those who are in the business, to say whether price shall be down or not as a matter of sales.

I would like to suggest this, Mr. O'Connell, that I get it from the trade as a matter of information which I deem reliable, and I therefore state it to be my belief, that somewhere around 75 percent of our sales now of alcoholic beverages, distilled spirits beverages, sell at a price of \$1 a pint or under. In other words, there is the cheap liquor, 10 drinks for perhaps 89 cents or up to \$1.

Mr. O'CONNELL. I wasn't intending to direct the question so much as to whether the present price of whisky was high or low; I don't believe it is possible for us to determine here whether the price of \$1 a pint is a high price or a low price. I was directing my question as to what you conceive to be the function of the Institute as regards the price, whatever price it may be, that the consumer pays, and I understood Dr. Doran to say the Institute was not concerned with that.

Dr. STURGES. No; I am sure I wouldn't pass judgment on whether the price of liquor is too high or not.

Mr. O'CONNELL. Does the Institute do anything in the nature of collecting and disseminating prices to its members?

Dr. STURGES. Not a thing.

Mr. O'CONNELL. Earlier in your testimony you stated that the liquor industry was a highly competitive industry and that it was one that would continue to be highly competitive.

Dr. STURGES. I believe so.

Mr. O'CONNELL. And as the result of the terrific competition, some pernicious practices tended to arise. Do you conceive that the Institute has a function as regards regularizing competition, or reducing the amount of competition, or possibly eliminating competition? I am just curious to know what your function is.

Dr. STURGES. I do not have any such program, and the Institute does not; but there seem to be certain byproducts of what I would call excessive competition which the public authorities recurringly bring to our attention, which they, the State administrators, complain of. They are proscribed in a general way within the Federal Alcohol Administration Act, and as competition becomes intense, with a tendency to indulge in rebates, kick-backs, throwing \$5 to the bartender to induce the pouring of his drink, things that affect human beings that are engaged in that practice, and I think most people agree are not savory or honest, the Institute is concerned to discover what possible implementations can be accomplished to eliminate them.

Mr. O'CONNELL. Do you believe that competition in the industry, if not carried to such extremes, is a desirable thing for the industry?

Dr. STURGES. Very.

Mr. O'CONNELL. Would you care to take a position or express a conviction as to whether or not price competition is also a desirable thing in the retail sale of liquor?

Dr. STURGES. I have listened to the attitudes expressed here, and on price fixing personally I obviously have no final judgment. Secondly, I think that so far as my principals are concerned, they regard the present fair trade acts differently. There are some positive expressions of conviction that they are desirable, some that are not so positive, and I think the general attitude of the members of the Institute is one of regarding the present situation as experimental, and the laws that have existed, that they are trying now, perhaps are more or less satisfactory.

My own feeling is becoming terribly involved. To allow the price of whisky to go down too cheaply might result in an unfortunate amount of consumption.

Mr. O'CONNELL. That rather interests me, because that gives the liquor industry or possibly the Institute a rather sort of social function. In other words, do you feel that they have a duty to protect the consumers from themselves by keeping the price up so that the per capita consumption won't get too high?

Dr. STURGES. I am expressing a personal opinion, and on the other hand I think it purveys the attitude of my principals as I articulate it more or less for them, that there is the social function, and that there is the social delimitation so far as the amount of consumption that people ought to consume.

Mr. O'CONNELL. That is rather interesting to me, because frankly I was under the impression generally when we started this discussion that the businessmen in the liquor industry, as in most industries, were almost entirely concerned with selling as much of their product at the highest possible price, the largest possible profit, rather than with the broader view of protecting the consumers from using too much of the product.

Dr. STURGES. I think the members of the Distilling Spirits Institute ought to have a little more credit than possibly you are willing to give them. I say that with the greatest of sincerity.

Mr. O'CONNELL. I could see that it also would be to their self-interest if by virtue of the operation of the industry, the industry should fall, as you put it earlier, into disrepute by virtue of the undue sales, or something of that sort.

Dr. STURGES. We couldn't come out, I don't believe, in advertisements, for example, and advocate on Saturday that there ought to be three drinks for the price of one on Monday.

Mr. O'CONNELL. It may be very good business.

Dr. STURGES. It might be technically good business for the time being, but I think that my principals' and certainly my own feelings are that that would be quite unfortunate.

Mr. DAVIS. You want us to understand that the purpose of your principals in undertaking to maintain prices to the consumer of alcoholic liquors is altruistic and from the standpoint of the morals and health of the consumer?

Dr. STURGES. I would like to say this to you, Judge, and it is as direct an answer to your question as I can make, granting the implications of your statement: That I am very confident that the members of the Distilled Spirits Institute are very sensitive to the fact that there is and should be a limitation on consumption of distilled spirits by the consuming public, that the attitude is quite distinct from that of the manufacturer of cornflakes or the producer of milk.

Mr. DAVIS. Do you know of any members of the industry who have refused to sell at fair prices for that reason?

Dr. STURGES. No, I do not; no.

#### BOOTLEGGING PROBLEM INVOLVED IN INCREASED TAXATION

Mr. NATHAN. In line with that matter of prices, would you mind telling us very briefly the position you took before the tax committee of New York State?

Dr. STURGES. I took the position before the New York Tax Committee that I felt that if the tax were raised from \$1 to \$1.50 per gallon, the excise tax, that it would be very unfortunate, that it would be unfortunate in the matter of probably inviting increased distribution of un-tax-paid distilled spirits.

Mr. NATHAN. In other words, you believe that the bootlegging would be increased substantially by higher taxes?

Dr. STURGES. That is my fear; yes. What the precise point is, of course, I do not know and I couldn't state it, but I think the jump from \$1 to \$1.50 in New York goes over the limit.

Mr. NATHAN. In other words, you believe there is a certain point at which when prices get too high the bootlegging interests come in and too low you may get overconsumption relative to certain moral standards.

Dr. STURGES. I have that feeling; yes, sir.

Mr. O'CONNELL. Doctor, as a representative of the Institute and of the industry, your primary concern in all probability was that to the extent that the amount of illegal liquor consumed would be increased that the amount of liquor sold by the industry would be decreased. Isn't that a fair statement?

Dr. STURGES. I don't think I quite follow you.

Mr. O'CONNELL. I say that in taking the position that you took before the tax committee in New York, your primary concern, as I view it, was that the result of an increase in the duty and as a result

of that an increase in the amount of illegal liquor consumed, the amount of liquor sold by members of the industry would be decreased.

Dr. STURGES. Certainly.

Mr. O'CONNELL. Your primary interest is a business one and not the morals of the situation.

Dr. STURGES. That is true. I would rather have the legalized tax-paying industry have the business than to have what we call the bootlegging, non-tax-paying industry have it.

Mr. O'CONNELL. And to that extent, the Institute is really interested in price, is it not?

Dr. STURGES. You may say that, when you point out the inconsistency of a position with respect to resale price maintenance. I can only say I haven't any final conviction on the use of the Fair Trade Act. It is experimental. I would like to learn more about it.

Mr. O'CONNELL. Generally speaking, would it be fair to say that it is the position of the Institute to oppose attempts on the part of State legislatures or the Federal Government to increase the tax on liquor?

Dr. STURGES. No. I would like to state very definitely what I feel is our position and will continue to be our position; that what is done by the several States and what is their rate of taxation is none of the distillers' business unless it comes to a particular situation which seems to involve some social implications; and the tax case I so conceived, and that I should appear before the committee to present my point of view in behalf of the industry.

Mr. O'CONNELL. In New York the tax rate was \$1 a gallon.

Dr. STURGES. That is true.

Mr. O'CONNELL. And the industry would feel that any attempt on the part of a State legislature. I take it, to increase the tax on liquor above \$1 a gallon would by virtue of the social implications be something that the Institute should oppose.

Dr. STURGES. That is correct. I think they have gone practically high enough. We have some suggestion in Wisconsin, I believe, that the tax be raised from \$1 to \$2. On the other hand, the State of Connecticut proposes to increase its tax from 60 cents, my last information is, to 80. We will not go to Connecticut.

Mr. O'CONNELL. Did the Institute oppose the increase of the Federal tax from \$2 to \$2.25?

Dr. STURGES. I think that they had some difficulties in their points of view as a matter of membership and took no Institute position at that time.

Mr. O'CONNELL. It is pretty difficult to lay down a hard and fast rule for the Institute.

Dr. STURGES. It is.

Mr. O'CONNELL. But it is a matter of the social implications of an increase in the tax rather than the effect upon the sales of the members of the Institute.

Dr. STURGES. It is two ways of saying the same thing. I shall have to have it imputed to me that I am selfishly looking out for my principals. On the other hand, there is the other attitude which if espoused by a professor, for example, would be looked upon as a social job.

Mr. G'CONNELL. But any other component part of the price structure that goes to make up the retail price is subject to the same social implication as the tax.

Dr. STURGES. Well, to impose the increase of a tax from \$1 to \$1.50 on the present resale price maintenance program in New York is at least a fortiori a case of opposing the tax increase. Maybe there are counteracting and other considerations relating to resale price maintenance which would not be controlling with respect to the question of tax increase—offsetting justifications. Possibly if there were 100 per cent law enforcement and the illicit liquor was kept out and that assurance obtained, there would be no occasion to object to the increase in the tax on a social basis. Whether the most effective way of getting more and more revenues is to increase the rate or to decrease the rate, that is another consideration. I relied on expert authority, I thought, the public authorities of the control board who indicate that it is desirable to decrease the rate of tax.

Mr. BUCK. Doctor, I was interested in the statement that you would like to appear to present the views of the industry. Do you mean that your membership of 17 distillers as against 80 who are not members should be taken as representing the industry, or do you mean that you just appear for your principals?

Dr. STURGES. There were many—I will say some—I have forgotten how many—who also requested us to appear in their behalf, distillers and also groups of retailers. It was, in other words, a consensus of trade opinion, as near as I could describe it, that the proposed tax increase in New York was undesirable.

Mr. BUCK. As I understand it, you oppose tax increase because it would increase bootlegging, yet you don't feel that any activity is required in order to reduce the price of liquor at all.

Dr. STURGES. I have no basis for a judgment.

Mr. BUCK. But aren't you dealing with prices, concerned with prices, when you oppose a tax on that principle?

Dr. STURGES. I grant that is true. There may be inconsistencies in one's behavior, without one being required to justify them at the moment.

#### SALARIES OF THE DIRECTOR AND PUBLIC RELATIONS COUNSEL

Mr. BUCK. To get back to the question I asked you relative to your public relations man,<sup>1</sup> the committee would like to know, I am told, what you base your objections upon. On what ground do you object to disclosing the information that I have asked for?

Dr. STURGES. You mean the salaries? I have tried to make it as clear as I could, Mr. Buck. I am sure I have.

Mr. BUCK. Do you hold this committee hasn't the authority?

Dr. STURGES. Not at all. This is salaries, now, of my staff?

Mr. BUCK. That's right.

Dr. STURGES. I have tried to indicate to the committee that I am very happy to have them have it, receive it in confidence. I tried to state why I did not wish to submit it here, and that reason is a matter of personal protection, protection for them, and protection for me in my own office.

<sup>1</sup> See also *supra*.



Mr. BUCK. Protection from whom?

Dr. STURGES. Salesmen who find out what the salaries are. I may say my salary was once published in a newspaper; it was inaccurate, and why should I be pestered with people; I don't want to buy many things that many people would like to sell. I am perfectly willing that the salaries should be disclosed to you as a committee and see that you get it, personally—each one of you, or otherwise. If the committee insists that it is important, controlling, I will yield.

Mr. BUCK. I have no interest in it. I just assumed, so long as the committee asked the question of Dr. Doran when he was on the stand, that the committee was interested in that phase of the investigation, and I ventured the question. I personally don't give a rap.

Dr. STURGES. I am perfectly willing to tell you.

Mr. BUCK. What yours is or what his is.

Dr. STURGES. You may have them. I will tell you outside. I am merely trying to keep it out of the public record.

Mr. BUCK. The committee was interested and asked Dr. Doran, and I assume they were interested in this question.

You put it on the ground that you don't want to be disturbed by somebody who wants to sell an automobile or something.

Dr. STURGES. Well, it is automobiles, it is dry cleaners, it is books, and it is children's clothes for the summer, and a thousand and one other things.

Mr. BUCK. Well, so far as I am concerned I leave it as it is, in the hands of the committee, and I take it, of course, you will abide by their ruling.

Mr. NATHAN. May I ask, your organizer is primarily responsible for the organization of the committee in Connecticut?

Dr. STURGES. Yes. That is; he stayed there until the structure was organized and now he has moved into another State.

Mr. NATHAN. Would you mind admitting for the record the amount of the appropriation to that committee?

Dr. STURGES. I am very happy to state it. There has been paid \$2,200, and the appropriation is \$3,500.

Dr. LUBIN. Mr. Sturges, I understood the previous witness to state that the Institute has never taken any activity in the passage of laws relating to fair-trade practices or price fixing. If, as a result of activity on the part of the distiller, it came to your attention that there was a movement on foot whereby the price of liquor was raised, say, 25 cents or 50 cents a quart under the fixed price laws—in other words, the trend was in that direction, which according to the testimony—

Dr. STURGES (interposing). I am sorry; I lost it.

Dr. LUBIN. I am citing a hypothetical case where you would learn that, because of one reason or another, there was a general tendency in a given State or series of States where fair-trade laws prevail to increase the price of liquor, say, 50 cents a quart. Now, on the basis of the statements you have made, that should lead to an increase in the sale of bootleg liquor. Would you feel it came within the provinces of the Institute or that it would be your duty to undertake to prevail upon the members of the industry which were increasing their prices, to persuade them not to do it?

Dr. STURGES. You have stated a similar social implication. There is no question.

Dr. LUBIN. In that sense the Institute would feel it its duty to see that prices didn't get too high?

Dr. STURGES. Yes.

Dr. LUBIN. That assumes, then, that the present price is not too high.

Dr. STURGES. That is a hard question to answer. I don't know how you make the assumption. The price of whisky is not too high for you if you buy it. What little I buy, I buy what I can pay for and I think I buy quality.

Dr. LUBIN. Wouldn't we both do the same if the price were 50 cents higher?

Dr. STURGES. No; I wouldn't. My supply, my consumption, would be curtailed.

Dr. LUBIN. There is a further question I would like to ask you. I don't know whether you can answer it, and if you can't, feel perfectly free to say so. In view of your recent association with the organization it may be you don't know the facts, but I was very much interested in the various figures on expenditures showing a very marked jump in expenditures in the year 1937. Do you know of anything peculiar to that year which resulted in this large increase in certain types of expenditures?

Dr. STURGES. Mr. Lubin, I can't answer that of my own personal knowledge. I don't know.

Acting Chairman WILLIAMS. Now, Doctor, as I understand you, with reference to this question that was asked you concerning the salaries, you don't question the right or the authority of the committee to require you to produce those?

Dr. STURGES. No; I do not question the power of this committee to subpoena them.

Acting Chairman WILLIAMS. It is a question of personal convenience and to avoid some people trying to sell you something?

Dr. STURGES. If those figures were put into the record——

Mr. BUCK (interposing). Not to him but to someone else. This salary doesn't relate to the doctor but to an employee of the Institute.

Dr. STURGES. I understood you to ask for mine.

Mr. BUCK. I didn't ask for yours.

Acting Chairman WILLIAMS. Will you ask your question again, Mr. Buck, in order that we may have it in the record?

Mr. BUCK. I want to put the matter in this position: I propounded the question in the original instance because a member of the committee itself had asked the question of a previous witness. Picking that up as being a possible matter of interest to the committee, I asked the doctor to give the committee the salary of Mr. Norman Baxter, the public-relations man. Now, personally, I didn't begin the question at all. I have no use for it except that I considered it a matter of interest to this committee, and I was trying to aid the committee. So long as the matter has arisen, I hate to see it go over unanswered. I think it is a good matter. Why make fish of one and fowl of another? We asked Dr. Doran the question. He answered it, and I asked the doctor if he will put in the record

of this proceedings a list of all salaries of all members of his Institute.

Dr. STURGES. Mr. Chairman, will it be out of order to make one statement? So far as Mr. Doran is concerned, that is ancient history. The statement of his salary was while he was director. He is not now director. In our case, salaries are known to be our present salaries.

Acting Chairman WILLIAMS. You have already stated your grounds for your desire not to produce it.

Dr. STURGES. I am not putting it on any technical grounds whatsoever, nor reserving the question as to your jurisdiction. I feel it is just a matter of concession to the 21 employees of the Distilled Spirits Institute. I am perfectly willing to supply the data. I can supply the data for you to the committee or otherwise.

Acting Chairman WILLIAMS. I will ask you to remain, if you will. Can you remain for a few minutes until we have an executive session to determine the matter?

Dr. STURGES. I shall be very pleased to.

Acting Chairman WILLIAMS. Mr. Buck, I think we will conclude this hearing with that understanding, that the committee will go into executive session to determine the matter and the doctor, if it so determines, shall return and produce those figures.

Mr. BUCK. I would like to reserve this arrangement with the committee, that in the event the committee should conclude that the doctor ought not to state or answer the question, that the committee reconvene and permit me to call Norman Baxter, who is on the list of witnesses for the hearing, just as a matter of inquiry.

Acting Chairman WILLIAMS. Very well. However, we will go into executive session at the present time.

(Whereupon the committee went into a brief executive session.)

Acting Chairman WILLIAMS. The committee will be in order.

Mr. BUCK. Dr. Sturges, I will ask you to state to the committee the annual salaries paid by the Distilled Spirits Institute to the director, public-relations counsel, the secretary and treasurer, and the organizer.

Dr. STURGES. The secretary and general counsel and the organizer?

Acting Chairman WILLIAMS. The committee has decided that that is germane and that the answer should be given.

Dr. STURGES. I am very pleased to give it. The director of public relations, \$22,500; the secretary and general counsel, \$12,000; the organizer, \$6,000.

Mr. BUCK. And the director.

Dr. STURGES. Did you ask my own? \$30,000.

Mr. DAVIS. Those are the salaries at the present time?

Dr. STURGES. At this moment; yes, sir.

Acting Chairman WILLIAMS. I think that is all.

Mr. BUCK. That is all I have.

(Dr. Sturges was excused from the stand.)

Mr. BUCK. Mr. Chairman, that concludes the hearing, I think, because it is nearly 6 o'clock. I want to make this statement. First, I want to express my thanks to the members of the industry who have come here and testified; and, secondly, I want to thank the committee for its indulgence, the many kindnesses to me in particular.

I want to say that this hearing is not as complete as I would like to see it. Necessarily we have had to pass over very many important facts because of the lack of time. In fact, we have been unable to use many very important witnesses because of the time at the disposal of the committee for the hearing.

I would suggest, therefore, that the committee allow or request the Federal Trade Commission to supplement the hearing by the filing of the report, based upon available statistics, and the answers to questionnaires that have heretofore been circulated to the industry, and that that report be considered as part of this hearing in the record.

Acting Chairman WILLIAMS. Is that a request that this report you speak of be part of the printed record?

Mr. BUCK. Yes, sir; when filed. I feel that that is material in order to fill in many of the gaps we have been required to leave because of the lack of time.

Acting Chairman WILLIAMS. If there is no objection to that, that will be done.

Dr. LUBIN. Mr. Chairman, may I just interrupt? Under the rules and regulations adopted by the committee in its first session, definite arrangement was made relative to the receipt of certain types of information to go into the record, and, with your permission, sir, may I suggest that the decision be held in abeyance, pending a decision by the full committee?

Acting Chairman WILLIAMS. Yes; that may be done.

Mr. BUCK. I simply wanted to leave the thought with the committee that such a report would make the hearing more complete and more valuable.

Dr. LUBIN. I don't feel there would be any objection to such a procedure, but I am thinking only in terms of those absent members of the committee.

Acting Chairman WILLIAMS. Do you mean by that that the suggested report which you have should be submitted to the committee for consideration, as to whether they will admit it to the record or not?

Mr. BUCK. As I understand Dr. Lubin, he knows that there is some rule of the committee made at its first session, and it would require the consideration of the full committee to pass upon this question.

Dr. LUBIN. No; it would not require such action, but I was suggesting we delay it pending a meeting of the full committee.

Mr. BUCK. I want to leave the thought with the committee.

Dr. STURGES. May I ask one question, whether or not the industry, the Distilled Spirits Institute acting, would be privileged to submit a brief before this committee?

Acting Chairman WILLIAMS. I rather think not under the ruling here in addition to what you have already stated in the record.

Mr. DAVIS. That would have to be determined by the committee.

Acting Chairman WILLIAMS. Of course, I suppose the committee could permit that.

Dr. STURGES. I should like to request the opportunity of submitting a memorandum.

Acting Chairman WILLIAMS. That may be done. You may submit the memorandum to the committee to determine whether or not it should be incorporated in the record.

Dr. STURGES. At what time limit?

Acting Chairman WILLIAMS. This committee is to stand in recess, at the call of the chairman, just when I don't know. It perhaps will be in recess here for a week or 10 days.

Dr. STURGES. May I contact the committee after the recess?

Acting Chairman WILLIAMS. Yes; you may contact the chairman, Senator O'Mahoney, at any time as to when the next meeting will be.

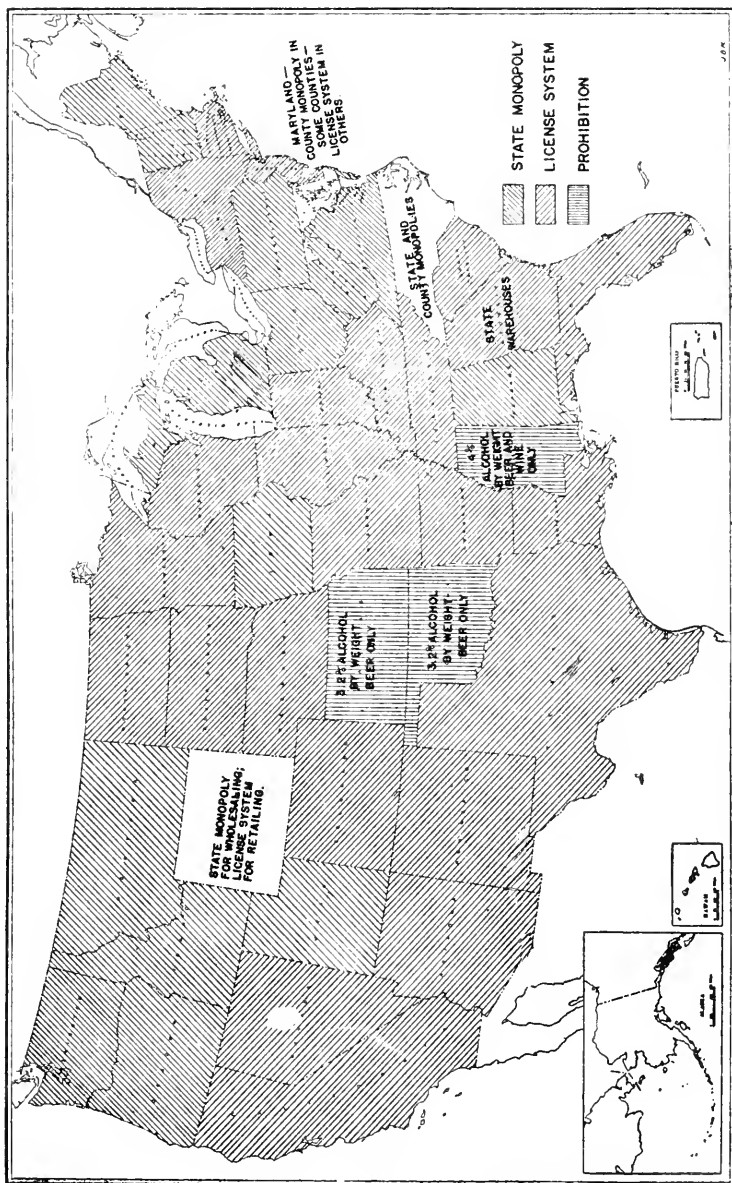
With that, the committee will now stand in recess at the call of the chairman.

(Whereupon, at 5:45 p. m., an adjournment was taken subject to the call of the chairman.)



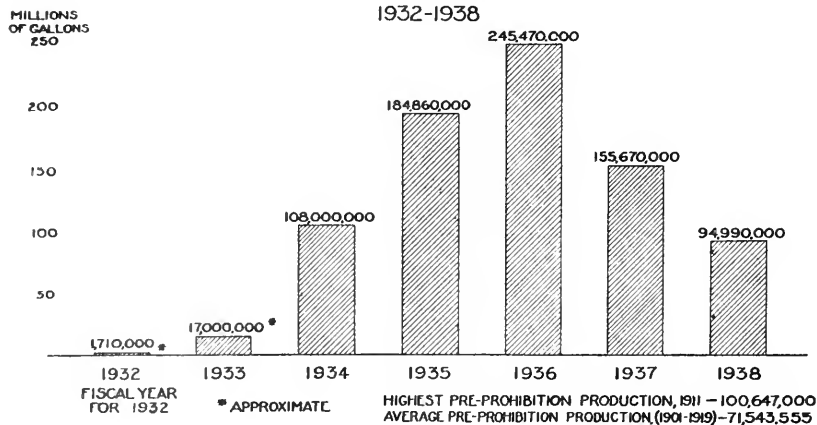
# SYSTEMS OF STATE LIQUOR CONTROL

## APPENDIX



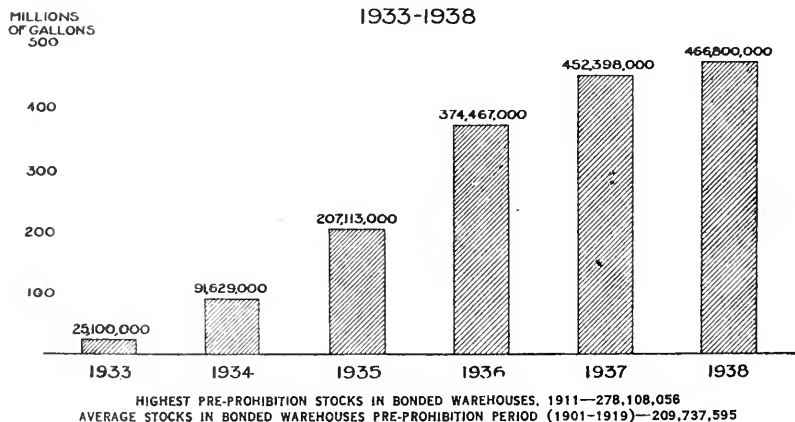
## EXHIBIT No. 395

FEDERAL ALCOHOL ADMINISTRATION  
 PRODUCTION OF WHISKEY IN THE UNITED STATES  
 IN TAX GALLONS  
 1932-1938



## EXHIBIT No. 396

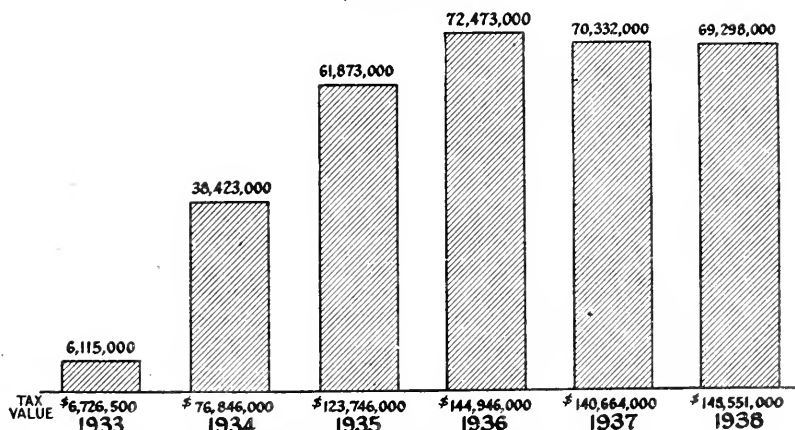
FEDERAL ALCOHOL ADMINISTRATION  
 STOCKS OF WHISKEY IN BONDED WAREHOUSES  
 IN TAX GALLONS  
 1933-1938





## EXHIBIT No. 397

# WHISKEY WITHDRAWN TAXPAID IN TAX GALLONS 1933-1938 (Calendar Years)



HIGHEST PRE-PROHIBITION WITHDRAWAL, 1917 - 83,591,000  
AVERAGE PRE-PROHIBITION WITHDRAWAL, 1901-1919 - 61,652,000  
Federal Alcohol Administration - 2-1-39

## EXHIBIT No. 398

# WHISKEY DISTILLERIES IN OPERATION ANNUAL CAPACITY AND PRODUCTION TAX GALLONS

FISCAL YEARS	1933	1934	1935	1936	1937	1938
DISTILLERIES OPERATED	7	44	79	112	126	108
ANNUAL CAPACITY* (IN THOUSANDS)	18,780	234,750	303,660	382,631	435,814	434,986
ANNUAL PRODUCTION (IN THOUSANDS)	4,910	62,352	149,112	223,659	223,457	102,895

\* BASED ON 24 HOURS, 313 DAYS

	1914	1937
DISTILLERIES OPERATED	352	126
WHISKEY PRODUCED (IN THOUSANDS)	88,698	223,457
AVERAGE PER UNIT (IN THOUSANDS)	252	1,773

## EXHIBIT No. 399

**WHISKEY DISTILLERIES OPERATED AND  
WHISKEY PRODUCED  
FOUR COMPANIES COMPARED WITH ENTIRE INDUSTRY  
1934-1938**  
(Calendar Years)

	<u>1934</u>	<u>1935</u>	<u>1936</u>	<u>1937</u>	<u>1938</u>
<b>DISTILLERIES:</b>					
ENTIRE INDUSTRY	74	100	118	129	97
FOUR COMPANIES	16	13	18	20	20
<b>PRODUCTION:</b>					
(Tax Gallons)					
ENTIRE INDUSTRY	108,000,000	184,860,000	245,470,000	155,670,000	94,990,000
FOUR COMPANIES	65,000,000	84,700,000	111,900,000	73,000,000	60,400,000
<b>AVERAGE PER DISTILLERY:</b>					
(Tax Gallons)					
ENTIRE INDUSTRY	1,459,000	1,848,000	2,080,000	1,206,000	979,000
FOUR COMPANIES	4,062,000	6,515,000	6,216,000	3,650,000	3,020,000

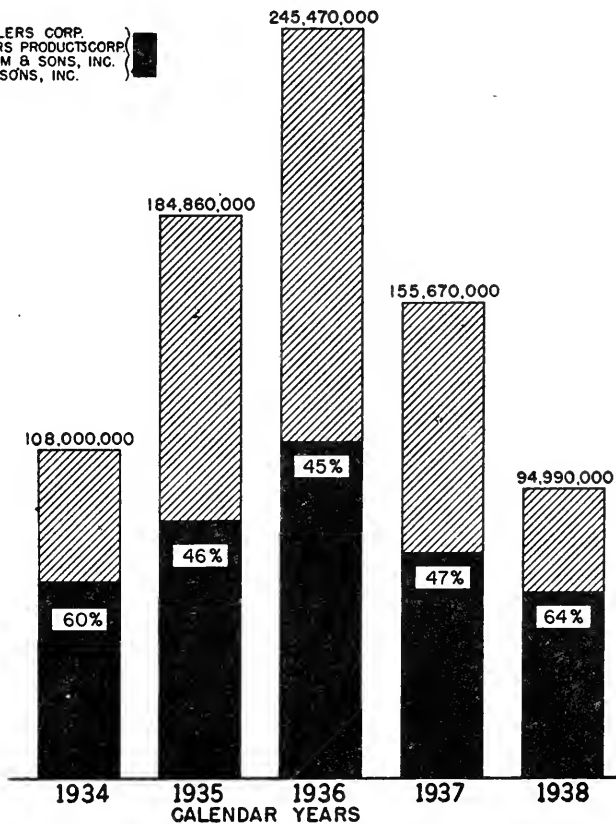
## — FOUR COMPANIES —

SCHENLEY DISTILLERS CORP.  
NATIONAL DISTILLERS PRODUCTS CORP.  
JOSEPH E. SEAGRAM & SONS, INC.  
HIRAM WALKER & SONS, INC.

EXHIBIT No. 400

# PRODUCTION OF WHISKEY IN THE UNITED STATES BY FOUR COMPANIES COMPARED WITH TOTAL PRODUCTION TAX GALLONS

SCHENLEY DISTILLERS CORP.  
NATIONAL DISTILLERS PRODUCTS CORP.  
JOSEPH E. SEAGRAM & SONS, INC.  
HIRAM WALKER & SONS, INC.

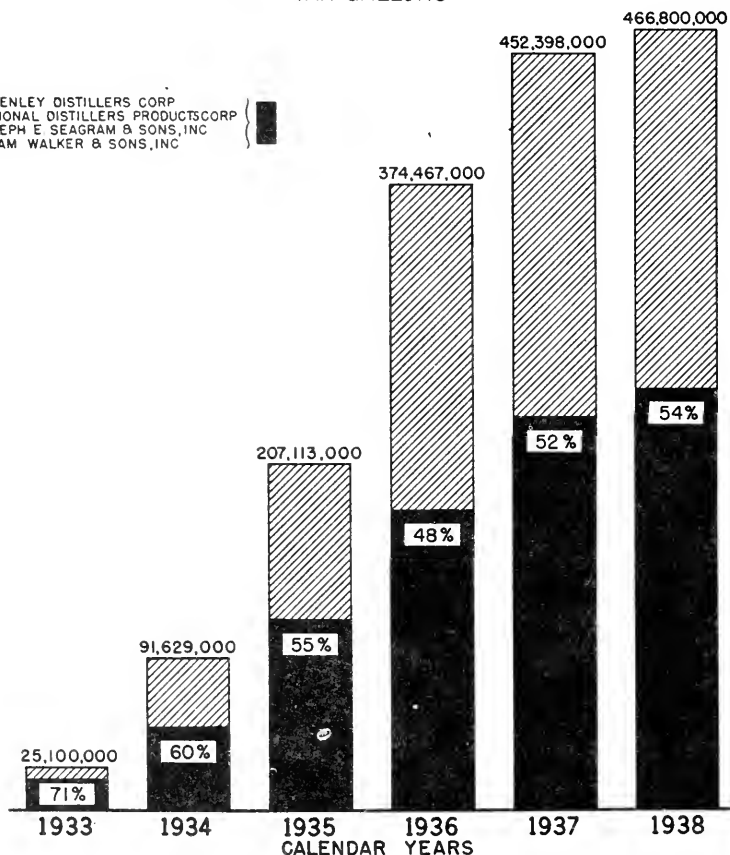


FEDERAL ALCOHOL ADMINISTRATION  
STATISTICS DIVISION

EXHIBIT No. 401

# STOCKS OF WHISKEY IN BONDED WAREHOUSES HELD BY FOUR COMPANIES COMPARED TO TOTAL STOCKS TAX GALLONS

SCHENLEY DISTILLERS CORP  
 NATIONAL DISTILLERS PRODUCTS CORP  
 JOSEPH E. SEAGRAM & SONS, INC  
 HIRAM WALKER & SONS, INC



FEDERAL ALCOHOL ADMINISTRATION  
STATISTICS DIVISION

EXHIBIT No. 402

**TOTAL STOCKS OF WHISKEY FOUR YEARS OLD  
AND OVER REMAINING IN BONDED WAREHOUSES  
AS COMPARED WITH  
SUCH STOCKS HELD BY FOUR COMPANIES  
TAX GALLONS**

SCHENLEY DISTILLERS CORP.  
NATIONAL DISTILLERS PRODUCTS CORP. } ■  
JOSEPH E. SEAGRAM & SONS, INC.  
HIRAM WALKER & SONS, INC.

SCHENLEY DISTILLERS CORP.  
NATIONAL DISTILLERS PRODUCTS CORP. } ▨

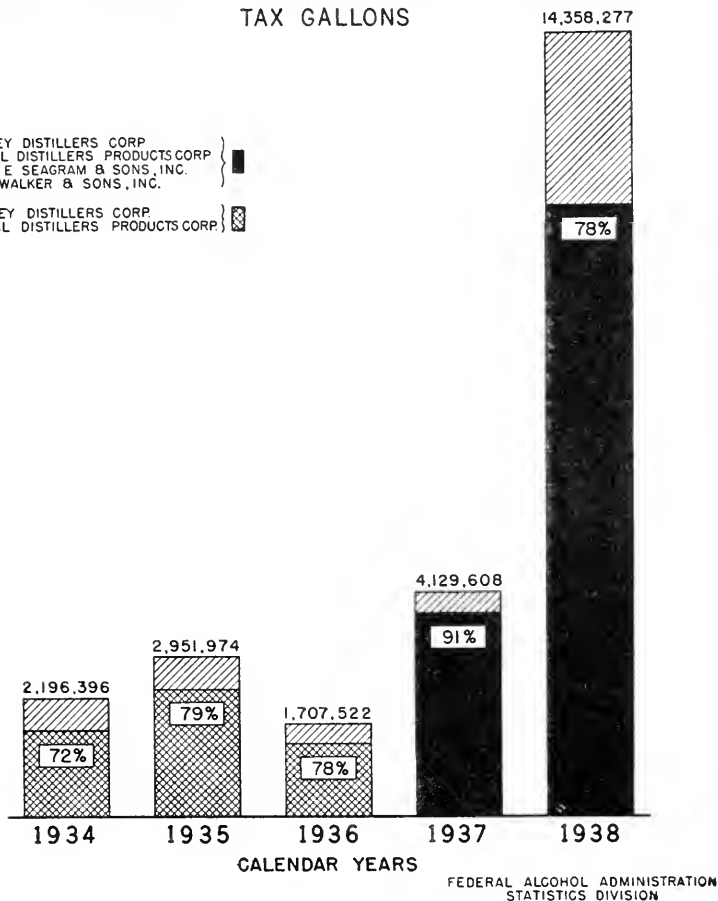


EXHIBIT No. 403

**UNITED STATES BOTTLING IN BOND ACT**

An Act to allow the bottling of distilled spirits in bond (Act of March 3, 1897, Ch. 379, 29 Stat., 626, as amended by Act of March 2, 1929, Ch. 510, 45 Stat., 1496; Act of June 26, 1936, Ch. 830, 49 Stat. 1944; and by Act of July 9, 1937, Ch. 472, 50 Stat. 487 (26 U. S. C. A., 1276 through 1282))

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever any distilled spirits deposited in the Internal Revenue Bonded Warehouse have been duly entered for withdrawal before or after tax payment, or for export in bond, and have been duly gauged and the required marks, brands, and tax-paid stamps (if required) or export stamps, as the case may be, have been affixed to the package or packages containing the same, the distiller or owner of said distilled spirits, if he has declared

his purpose so to do in the entry for withdrawal, which entry for bottling purposes may be made by the owner as well as the distiller, may remove such spirits to a separate portion of said warehouse which shall be set apart and used exclusively for that purpose, and there, under the supervision of a United States storekeeper-gauger in charge of such warehouse, may immediately draw off such spirits, bottle, pack, and case the same. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized; nor shall there be at the same time in the bottling room of any Internal Revenue Bonded Warehouse any spirits entered for withdrawal upon payment of the tax and any spirits entered for export.

Every bottle when filled shall have affixed thereto and passing over the mouth of the same a stamp denoting the quantity of distilled spirits contained therein and evidencing the bottling in bond of such spirits under the provisions of this section, and of regulations prescribed under paragraph (3) of this section.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, applications for purchase of the stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as the Commissioner shall deem necessary for the enforcement of this section.

Such stamps shall be issued by the Commissioner of Internal Revenue to each collector of internal revenue, upon his requisition in such numbers as may be necessary in his district, and, upon compliance with the provisions of this section and regulations issued under paragraph (3) of this section shall be sold by collectors to persons entitled thereto, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price shall be one-quarter of 1 cent for each stamp.

And there shall be plainly burned, embossed, or printed on the side of each case, to be known as the Government side, such marks, brands, and stamps to denote the bottling in bond of the whisky packed therein as the Commissioner may by regulations prescribe.

And no trade-marks shall be put upon any bottle unless the real name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on said bottle.

SEC. 2. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulations, prescribe the mode of separating and securing the additional warehouses, or portion of the warehouse hereinbefore required to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given, and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made by the Government officer, and all such other matters and things as in his discretion, he may deem requisite for a secure and orderly supervision of said business; and he may also, with the approval of the Secretary of the Treasury prescribe and issue the stamps required.

The distiller may, in the presence of the storekeeper-gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment, or other like substance found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to 100 per centum proof for spirits for domestic use, or to not less than 80 per centum proof for spirits for export purposes, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury; but no spirits (except gin, for export) shall be bottled in bond until they have remained in bond in wooden containers for at least four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits: *Provided*, That nothing in this Act shall authorize the labeling of spirits in bottles contrary to the provisions of regulations issued pursuant to the Federal Alcohol Administration Act or any amendment thereof.

SEC. 3. That all distilled spirits intended for export under the provisions of this Act shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Commissioner of Internal Revenue may prescribe; and the said Commissioner, with the approval of the Secretary of the Treasury, may provide such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of existing law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are hereby extended and made applicable to distilled spirits bottled for export under the provisions of this Act, but no draw-back shall be allowed or paid upon any spirits bottled under this Act.

SEC. 4. That where, upon inspection at the bonded warehouse in which the spirits are bottled as aforesaid, the quantity so bottled and cased for export is less than the quantity actually contained in the distiller's original casks or packages at the time of withdrawal for that purpose the tax on the loss or deficiency so ascertained shall be paid before the removal of the spirits from such warehouse, and the tax so paid shall be receipted and accounted for by the collector in such manner as the Commissioner of Internal Revenue may prescribe.

SEC. 5. That where, upon reinspection at the port of entry, any case containing or purporting to contain distilled spirits for export is found to have been opened or tampered with, or where any mark, brand, stamp, label, or seal placed thereon or upon any bottle contained therein has been removed, changed, or willfully defaced, or where upon such reinspection any loss or discrepancy is found to exist as to the contents of any case so entered for export, the tax on the spirits contained in each such case at the time of its removal from warehouse shall be collected and paid.

SEC. 6. That any person who shall reuse any stamp provided under this Act, after the same shall have been once affixed to a bottle as provided herein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of this Act without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of this Act or of the regulations issued thereunder, remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of this Act or who shall bottle or case any such spirits in violation of this Act or of any regulation issued thereunder, or who shall, during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense be fined not less than one hundred nor more than one thousand dollars, and be imprisoned not more than two years, in the discretion of the court, and such spirits shall be forfeited to the United States.

SEC. 7. That every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of this Act, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by this Act, shall on conviction be punished by a fine not exceeding one thousand dollars and by imprisonment at hard labor not exceeding five years.

SEC. 8. That nothing in this Act shall be construed to exempt spirits bottled under the provisions of this Act from the operation of Chapter seven hundred and twenty-eight of the Public Laws of the Fifty-first Congress, approved August eighth, eighteen hundred and ninety.

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Section 626 of the Revenue Act of 1918 (Act of February 24, 1919, Ch. 18, 40 Stat. 1115) provides:

"Sec. 626. That distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe."

Section 307 of the Liquor Tax Administration Act (Act of June 26, 1936, Ch. 830, 49 Stat. 1945) reads as follows:

"Sec. 307 (a). All distilled spirits heretofore entered for deposit in a distillery, general, or special bonded warehouse, or hereafter entered for deposit

in an Internal Revenue Bonded Warehouse, shall be withdrawn therefrom within eight years from the date of original entry therein, except as provided in subsection (c) of this section."

Subsection (c) referred to above permits distilled spirits which were on July 26, 1936, eight years of age or older and in bonded warehouse to remain therein after such date, but prohibits the allowance for loss by leakage or evaporation to be made for such spirits for any period after that date.

### EXHIBIT No. 404

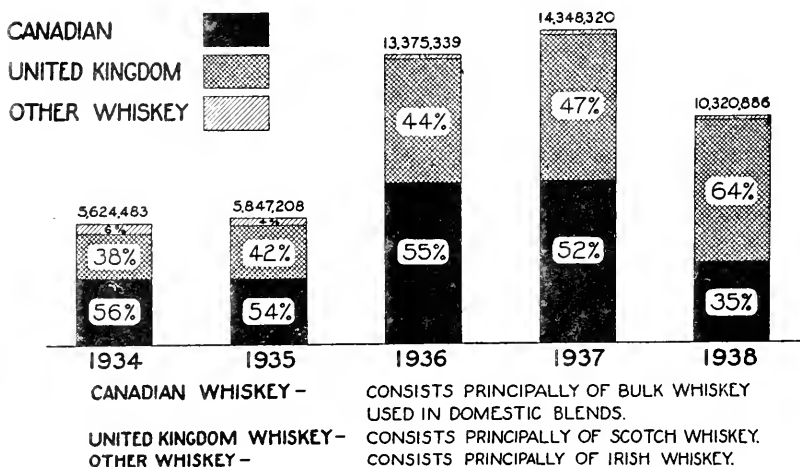
FEDERAL ALCOHOL ADMINISTRATION

## TOTAL WHISKEY IMPORTED INTO UNITED STATES

IN PROOF GALLONS

1934-1938

(CALENDAR YEARS)



"EXHIBIT No. 405", introduced on p. 2450, is on file with the committee.

"EXHIBIT No. 406", introduced on p. 2450, is on file with the committee.



EXHIBIT No. 407

# CONSUMER COST OF FOUR YEAR OLD & TWO YEAR OLD WHISKIES

DISTILLED BY THE SAME COMPANY

CONSUMER PAYS

\$3.79

BOTTLED-IN-BOND  
STRAIGHT BOURBON  
WHISKEY  
1 QUART - 100° PROOF

CONSUMER PAYS

\$1.92

TWO YEAR OLD  
STRAIGHT BOURBON  
WHISKEY  
1 QUART - 100° PROOF

WHOLESALE 43¢ } DISTILLER TO  
RETAILER \$1.09 } CONSUMER

DISTILLER'S  
COST AND PROFIT

FEDERAL 56¢ } FED. AND STATE  
STATE 25¢ } TAXES



4  
YEAR OLD



2  
YEAR OLD

DISTILLER TO } WHOLESALE 24¢  
CONSUMER } RETAILER 54¢

DISTILLER'S  
COST AND PROFIT

FED. AND STATE } FEDERAL 56¢  
TAXES } STATE 25¢

FEDERAL ALCOHOL ADMINISTRATION  
2-1-39

**EXHIBIT No. 408.**

## NATIONAL DISTILLERS PRODUCTS CORPORATION

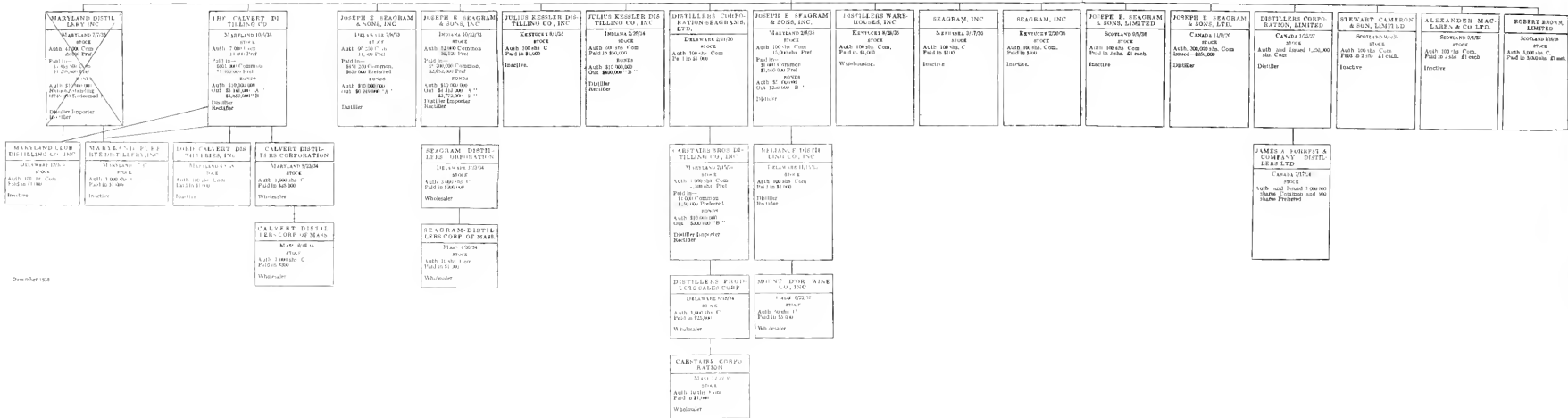
**DIRECTORS AND COMPANIES WITH WHICH THEY ARE CONNECTED**

<p>ADAMS</p> <p>AIR REDUCTION CO. INC.</p> <p>COMMERCIAL ACETYLENE SUPPLY CO. INC.</p> <p>CUBA DISTILLING CO.</p> <p>DRY ICE, INC.</p> <p>MAGNOLIA AIRCO GAS PRODUCTS CO.</p> <p>NATIONAL CARBIDE CORP.</p> <p>STERNO CORAL ALCOHOL CO.</p> <p>U.S. INDUSTRIAL CHEMICAL CO.</p> <p>WAMPOUR DISTRICT AMERICA</p> <p>WELSON CARBONIC CO. INC.</p> <p>WILSON NEW YORK &amp; TRUST CO.</p>	<p>CLARK</p> <p>ALEX D. SHAW &amp; CO. INC.</p> <p>A OVERHOLT &amp; CO. INC.</p> <p>CROWN FRUIT &amp; EXTRACT CO. INC.</p> <p>DRY ICE, INC.</p> <p>JOHN DE KUYPER &amp; SON, INC.</p> <p>W. A. GAINES &amp; CO.</p> <p>LARGE DISTILLING CO.</p> <p>PENN-MARYLAND CORP.</p> <p>CHICKASAW WOOD PRODUCTS CO.</p>	<p>LEWIS</p> <p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>	<p>WELSKOFF</p> <p>ALEX D. SHAW &amp; CO. INC.</p> <p>W. B. A. GIBNEY, LTD.</p> <p>AMERICAN MEDICAL SPIRITS CORP.</p> <p>AMERICAN MEDICAL SPIRITS CORP.</p> <p>PENNY-MARTLAND, INC.</p>	<p>FORGAN</p> <p>FIRM H. C. LEWIS ORGAN &amp; CO.</p> <p>BORG-WARNER CORP.</p> <p>AMERICAN MEDICAL SPIRITS CORP.</p> <p>INVISIBLE GLASS CO OF AMERICA</p> <p>RECTOR ROLLING CO.</p>
<p>BREED</p> <p>FIRM OF BREED, ARBOTT &amp; MORGAN</p> <p>AGLA ANSCO CORP.</p> <p>AMERICAN ROLLING MILL CO.</p>	<p>CLARKSON</p> <p>AMEREX HOLDING CORP.</p> <p>AMERICAN EXPRESS CO. INC.</p> <p>AMERICAN SUMATRANESS CO. INC.</p> <p>CONSOLIDATED OIL CORP.</p> <p>GENERAL THEATRE EQUIPMENT CORP.</p> <p>UNDERWOOD ELLIOTT FISHER CO.</p> <p>WELLS FARGO &amp; CO. OF COLORADO</p>	<p>JONES</p> <p>MANUFACTURERS TRUST CO.</p> <p>BUSH TERMINAL CO. NEW YORK CITY</p>	<p>MUNSON</p> <p>AIR REDUCTION CO. INC.</p> <p>COMMERCIAL ACETYLENE SUPPLY CO.</p> <p>CUBA DISTILLING CO.</p> <p>LIQUID CARBONIC CORP. OF CUBA</p> <p>NATIONAL CARBIDE CORP.</p> <p>PENNSURANCE CO. OF N. Y.</p> <p>STERNO CORP.</p> <p>U.S. INDUSTRIAL CHEMICAL CO.</p> <p>W. A. GAINES &amp; CO.</p> <p>WELSON CARBONIC CO. OF AMERICA</p> <p>DRUG INC.</p>	<p>PORTER</p> <p>FIRM OF SANDERSON &amp; PORTER</p> <p>A OVERHOLT &amp; CO. INC.</p> <p>AMERICAN SUMATRANESS CO. INC.</p> <p>AMERICAN WATER WORKS &amp; ELECTRIC CO. INC.</p> <p>ELECTRIC POWER ASSOCIATES, INC.</p> <p>GENERAL THEATRE EQUIPMENT CORP.</p> <p>TWENTIETH CENTURY-FOX FILM CORP.</p> <p>MCMANUS SHUFELDT &amp; CO.</p> <p>WEST PENN POWER CO.</p> <p>WILLIAM JAMESON &amp; CO.</p>
<p>BUCKNER</p> <p>TNE N Y TRUST CO.</p> <p>THE AMERICAN CANADIAN PROPERTIES CORP.</p> <p>CAROLINA, CLINTONFIELD &amp; OHIO RAILWAY CO.</p> <p>CHICAGO, MILWAUKEE, ST PAUL &amp; PACIFIC R. CO.</p> <p>COLUMBIA GRAPHOPHONE FACTORIES CORP.</p> <p>THE FIDELITY CO.</p> <p>FISHERS ISLAND CORP.</p> <p>GLOBE &amp; WRIGHTS OFFICE</p> <p>THE HOME INSURANCE CO.</p> <p>INTERBOROUGH RAPID TRANSIT CO.</p> <p>INTERNATIONAL POWER SECURITIES CORP.</p> <p>NEW YORK LIFE INSURANCE CO.</p> <p>NEW YORK WORLD'S FAIR 1893 INC.</p> <p>PENNSYLVANIA WATER &amp; POWER CO.</p> <p>THE PROVIDENT LOAN SOCIETY OF N Y</p> <p>ROSESTON BRICK CO., ROSESTON, N Y</p>	<p>MAC NAMARA</p> <p>ALEX D. SHAW &amp; CO. INC.</p> <p>CROWN FRUIT &amp; EXTRACT CO. INC.</p> <p>HENRY H. SHUFELDT &amp; CO.</p> <p>W. B. A. GIBNEY, LTD.</p> <p>CHICKASAW WOOD PRODUCTS CORP. NEW YORK CITY</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>
<p>DAVIS</p> <p>BROWN HARRMAN &amp; CO. INC.</p> <p>PHILADELPHIA &amp; READING COAL &amp; IRON CO.</p> <p>PHILIPPINE RAILWAY CO.</p>	<p>RUSSELL</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>	<p>OWENS-ILLINOIS GLASS CO.</p> <p>ILLINOIS GLASS CO.</p> <p>KIMBLE GLASS CO.</p> <p>OWENS STAPLE-THETACIFIC COAST CO.</p> <p>LIBBEY GLASS CO.</p> <p>INVISIBLE GLASS CO OF AMERICA</p>

TAKEN FROM 1936 EDITION OF "RODIN'S REGISTER OF DIRECTORS"



## DISTILLERS CORPORATION - SEAGRAMS LIMITED



## EXHIBIT No. 409

[Telegram]

MONTREAL, QUEBEC, March 13, 1939.

PHILIP E. BUCK,

*General Counsel, Federal Alcohol Administration.*

With reference to your telegram on Economic Committee hearing, pressure of business that I discussed with you makes it impossible for me to be available Tuesday. I hope that after you have questioned Mr. Wachtel and Mr. Friel my presence at the hearing will not be necessary.

SAM BRONFMAN.

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"EXHIBIT No. 410" faces this page.

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## EXHIBIT No. 411

BANK CREDIT AGREEMENT BETWEEN DISTILLERS CORPORATION-SEAGRAMS, LIMITED, ET AL., AND BANKERS TRUST COMPANY; MANUFACTURERS TRUST COMPANY; FIRST NATIONAL BANK OF BOSTON; CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; BANK OF THE MANHATTAN COMPANY; PENNSYLVANIA COMPANY FOR INSURANCE ON LIVES AND GRANTING ANNUITIES; SECURITY-FIRST NATIONAL BANK OF LOS ANGELES; THE FIRST NATIONAL BANK OF CHICAGO; FIRST NATIONAL BANK, ATLANTA; NATIONAL BANK OF DETROIT; FIRST NATIONAL BANK IN ST. LOUIS; NORTHWESTERN NATIONAL BANK AND TRUST COMPANY, MINNEAPOLIS; THE NATIONAL CITY BANK OF CLEVELAND; HARRIS TRUST & SAVINGS BANK, CHICAGO; FIRST NATIONAL BANK, PHILADELPHIA; CITIZENS UNION NATIONAL BANK, LOUISVILLE, KENTUCKY; FIRST NATIONAL BANK OF JERSEY CITY; FIRST NATIONAL BANK OF BALTIMORE; THE BOATMEN'S NATIONAL BANK; EMPIRE TRUST COMPANY; UNION TRUST COMPANY OF MARYLAND

Agreement, dated as of July 12, 1937, between DISTILLERS CORPORATION-SEAGRAMS, LIMITED (hereinafter called "Parent Corporation"), a corporation organized under the laws of the Dominion of Canada; JOSEPH E. SEAGRAM & SONS, INC., an Indiana corporation; JOSEPH E. SEAGRAM & SONS, INC., a Delaware corporation; JOSEPH E. SEAGRAM & SONS, INC., a Maryland corporation; SEAGRAM-DISTILLERS CORPORATION, a Delaware corporation; MARYLAND DISTILLERY, INC., a Maryland corporation; THE CALVERT DISTILLING CO., a Maryland corporation; CALVERT-DISTILLERS CORPORATION, a Maryland corporation; LINCOLN INN DISTILLING CO., INC., a Delaware corporation; JULIUS KESSLER DISTILLING CO., INC., an Indiana corporation (hereinafter collectively called the "Borrowers"), parties of the first part, and BANKERS TRUST COMPANY; MANUFACTURERS TRUST COMPANY; FIRST NATIONAL BANK OF BOSTON; CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; BANK OF THE MANHATTAN COMPANY; PENNSYLVANIA COMPANY FOR INSURANCE ON LIVES AND GRANTING ANNUITIES; SECURITY-FIRST NATIONAL BANK OF LOS ANGELES; THE FIRST NATIONAL BANK OF CHICAGO; FIRST NATIONAL BANK, ATLANTA; NATIONAL BANK OF DETROIT; FIRST NATIONAL BANK IN ST. LOUIS; NORTHWESTERN NATIONAL BANK AND TRUST COMPANY, MINNEAPOLIS; THE NATIONAL CITY BANK OF CLEVELAND; HARRIS TRUST & SAVINGS BANK, CHICAGO; FIRST NATIONAL BANK, PHILADELPHIA; CITIZENS UNION NATIONAL BANK, LOUISVILLE, KENTUCKY; FIRST NATIONAL BANK OF JERSEY CITY; FIRST NATIONAL BANK OF BALTIMORE; THE BOATMEN'S NATIONAL BANK; EMPIRE TRUST COMPANY; UNION TRUST COMPANY OF MARYLAND, (hereinafter collectively called the "Banks"), parties of the second part.

WHEREAS the parties of the first part desire to establish a two-year credit available on the terms and conditions herein set forth, up to a maximum of Ten million Dollars (\$10,000,000) principal amount during the first year and up to a maximum of Seven million five hundred thousand Dollars (\$7,500,000) during the second year (hereinafter called the "Term Loan"); and

WHEREAS the parties of the first part desire to borrow during certain limited periods, on the terms and conditions herein set forth, in addition up to a maximum of Ten million Dollars (\$10,000,000) principal amount (hereinafter called the "Temporary Loan"); and

WHEREAS the Parent Corporation is willing to guarantee the obligations of the other parties of the first part evidencing such borrowings, and the Banks are willing to grant such loans on the terms hereinafter set forth:

**THEREFORE IT IS AGREED:**

**FIRST:** The Banks agree to advance to the Borrowers on account of the Term Loan a principal amount which during the period ending one year from the date hereof shall not exceed Ten million Dollars (\$10,000,000) principal amount at any time outstanding, and which thereafter during the life of this Agreement shall not exceed Seven million five hundred thousand Dollars (\$7,500,000) principal amount at any time outstanding, upon the conditions, herein set forth, and, if, when, and during such time as the total principal amount outstanding on the Term Loan amounts to Ten million Dollars (\$10,000,000) during such period of one year from the date hereof or to Seven million five hundred thousand Dollars (\$7,500,000) thereafter, the Banks agree to advance to the Borrowers, in addition, on account of the Temporary Loan, an additional amount up to Ten million Dollars (\$10,000,000) principal amount at any time outstanding on account of the Temporary Loan, upon the terms and conditions herein set forth.

Each Bank agrees to advance to the Borrowers on account of the Term Loan and on account of the Temporary Loan up to the amounts set opposite its name below upon the terms and conditions herein set forth:

	Term Loan		Temporary Loan
	First Year	Second Year	
Bankers Trust Company.....	\$1,600,000	\$1,200,000	\$1,600,000
Manufacturers Trust Company.....	1,625,000	1,218,750	1,625,000
First National Bank of Boston.....	1,000,000	750,000	1,000,000
Continental Illinois National Bank and Trust Company of Chicago.....	1,000,000	750,000	1,000,000
Bank of The Manhattan Company.....	500,000	375,000	500,000
Pennsylvania Company for Insurance on Lives and Granting Annuities.....	500,000	375,000	500,000
Security-First National Bank of Los Angeles.....	500,000	375,000	500,000
The First National Bank of Chicago.....	500,000	375,000	500,000
First National Bank, Atlanta.....	400,000	300,000	400,000
National Bank of Detroit.....	375,000	281,250	375,000
First National Bank in St. Louis.....	250,000	187,500	250,000
Northwestern National Bank and Trust Company, Minneapolis.....	250,000	187,500	250,000
The National City Bank of Cleveland.....	250,000	187,500	250,000
Harris Trust & Savings Bank, Chicago.....	250,000	187,500	250,000
First National Bank, Philadelphia.....	200,000	150,000	200,000
Citizens Union National Bank, Louisville, Kentucky.....	150,000	112,500	150,000
First National Bank of Jersey City.....	150,000	112,500	150,000
First National Bank of Baltimore.....	150,000	112,500	150,000
The Boatmen's National Bank.....	125,000	93,750	125,000
Empire Trust Company.....	125,000	93,750	125,000
Union Trust Company of Maryland.....	100,000	75,000	100,000
Total.....	\$10,000,000	\$7,500,000	\$10,000,000

Any wholly owned subsidiary of the Parent Corporation accepted by the Bank Agent as a "Borrower" may become a party to this Agreement and thereafter for the purposes hereof shall be a "Borrower."

The Term Loan may be availed of by any one or more of the Borrowers in whole or in part, from time to time, and may be repaid in whole or in part and reavailed of subject to the foregoing limits as to amount until July 12, 1939, when said Loan and all obligations then outstanding under this Agreement shall mature.

The Temporary Loan may be availed of by any one or more of the Borrowers in whole or in part, from time to time, and may be repaid in whole or in part and reavailed of during the periods from September 15, 1937, to March 15, 1938, and from September 15, 1938, to March 15, 1939, respectively, and all obligations relating thereto outstanding under this Agreement on March 15, 1938, or on March 15, 1939, shall, respectively, mature on said dates.

Each Bank agrees that the failure of any Bank to extend credit as provided for hereunder shall not relieve any other Bank from its obligation to extend credit hereunder; and all parties agree that in no event shall any Bank be liable to extend credit hereunder in excess of the amounts set opposite its name above.

**SECOND:** Each borrowing under each of said Loans shall be from each of the Banks and shall be divided among them in proportion to the shares set forth

above of each of the Banks in the said Loans. Applications for borrowings under the Loans shall be made through Bankers Trust Company and shall be accompanied by promissory notes made by the particular Borrower payable at the maker's option on any date within the time limits stated above, to the order of each of the Banks at the office of Bankers Trust Company in proportionate amounts above stated. Each of the Banks (other than Bankers Trust Company) hereby authorizes and requests Bankers Trust Company to advance for its account pursuant to the terms hereof any such proportional borrowing from it, upon the presentation of such notes, and agrees forthwith to reimburse Bankers Trust Company for such advances.

Applications for loans by the Borrowers shall be granted hereunder by the Banks in the order received

Each note shall be in form satisfactory to the Banks and shall bear interest (a) if under the Term Loan at the rate of three and one-half per cent. ( $3\frac{1}{2}\%$ ) per annum, quarterly, and (b) if under the Temporary Loan at the rate of one per cent. ( $1\%$ ) per annum above the Federal Reserve Rediscount Rate current at the dates of the respective notes but not less than two and one-half per cent. ( $2\frac{1}{2}\%$ ) per annum, payable quarterly.

Each note, other than notes of the Parent Corporation, shall bear on the back the following guarantee:

"Distillers Corporation-Seagrams, Limited, hereby guarantees payment of the within note pursuant to the terms of its guarantee contained in agreement dated -----, between it, the payee and other parties."

So long as there is no default under this Agreement, any and all notes outstanding hereunder, whether or not the same have matured, may be renewed upon the delivery by the maker to the payee of new notes for a like principal amount in similar form, maturing at the maker's option at any time within the limits hereinabove set forth, provided, however, (a) that no notes under the Temporary Loan may be made or renewed unless the entire maximum under the Term Loan is outstanding, and (b) if at any time the total amount outstanding on the Term Loan falls below the maximum amount available as above set forth, all outstanding notes under the Temporary Loan shall forthwith be paid, whether matured or not, it being the intention that at no time will there be outstanding any borrowing under the Temporary Loan unless the full amount of the Term Loan has been availed of and is outstanding.

THIRD. Distillers Corporation-Seagrams, Limited, hereby irrevocably and unconditionally guarantees to the Banks, and each of them, and to each and every subsequent holder of the notes of the Borrowers, other than the Parent Corporation, representing borrowings hereunder, payment of the full amount of any and all obligations, direct or contingent, of the Borrowers under this Agreement or incurred pursuant hereto, from time to time and at all times, at maturity thereof, by acceleration or otherwise, but subject to all the terms of this Agreement, hereby waiving notice of acceptance of this guarantee and of any obligation to which it applies or may apply under the terms thereof, and waiving demand of payment, protest, notice of protest, and notice of dishonor of any such obligations.

FOURTH. The Parent Corporation and each of the other parties of the first part jointly and severally agree to pay to the Banks as a consideration for the Term Loan, and for the term thereof, a commitment commission at the rate of one-half percent ( $\frac{1}{2}\%$ ) per annum on the unused portion of the Term Loan calculated annually on the basis of average borrowings, which commitment commission shall be payable annually on July 12, as to the year ending on such date as long as the Term Loan shall remain in effect, such payment to be divided among the Banks in proportion to their respective advances under the Term Loan; provided that if the Term Loan and this Agreement are determined by the Parent Corporation and the other parties of the first part, or by the Banks, in case of default by the parties of the first part or otherwise, such commitment commission at the rate of one-half percent ( $\frac{1}{2}\%$ ) per annum shall be calculated on the unused portion of the Term Loan before such termination on the basis of average borrowings for the period elapsed since the date hereof or since the end of the last year, as the case may be, in respect to which the commitment commission shall have been paid, and shall be payable at the time of such termination. The parties hereto, other than the Banks, shall have the right to terminate this Agreement at any time, upon payment of all advances then unpaid under this Agreement, together with interest accrued thereon to date of payment, and the commitment commission to the date of termination as hereinabove provided, and thereupon any obligation of the Banks to advance further credit hereunder shall cease.

The intent of the foregoing paragraph is that the Parent Corporation and the other parties of the first part shall have the absolute right to terminate this Agreement at any time in whole or in part, in the manner above stated, upon payment of the commitment commission to the end of the relevant period above specified in which or at the end of which the Agreement is so terminated.

FIFTH: All repayments through Bankers Trust Company of obligations hereunder shall be apportioned among the Banks, so that at all times each Bank's share in each unpaid advance under the Term Loan and the Temporary Loan shall be proportional to its commitments as above stated.

SIXTH: Each of the parties hereto, other than the Banks, covenants and agrees that, except with the written consent of the Bank Agent, throughout the life of this Agreement and until the Term Loan and the Temporary Loan have both been fully and finally repaid.

(a) The consolidated net quick assets of the Parent Corporation and its subsidiaries shall at no time be less than \$30,000,000. Consolidated net quick assets, as used herein, shall mean cash on hand or in bank, good and collectible accounts and notes receivable, all inventory of merchandise on hand or under commitment to purchase valued at cost or market (whichever is lower) less (1) all unpaid advances under the loans herein provided for; (2) all liability for merchandise and supplies included in net quick assets above; (3) all liability for the purchase of other property, and (4) all other liabilities irrespective of maturity. Except as otherwise specifically provided, the consolidated net quick assets referred to above and the consolidated total liabilities referred to below shall be computed in accordance with standard accounting practice approved by independent public accountants satisfactory to the Banks.

(b) The consolidated total liabilities of the Parent Corporation and its subsidiaries, including the Term and Temporary Loans, shall at no time exceed \$37,000,000.

(c) Government taxes and customs duties on spirituous liquors in bond and in process shall not be included as a liability in determining net quick assets under subparagraph (a) of this Paragraph Sixth or in determining total liabilities under subparagraph (b) of this Paragraph Sixth.

(d) Neither the Parent Corporation nor any of its subsidiaries shall dispose of any stock of any subsidiary nor shall form or acquire any new subsidiaries unless such subsidiary so formed or acquired shall be wholly owned by the Parent Corporation or a wholly owned subsidiary of the Parent Corporation.

(e) Neither the Parent Corporation nor any of its subsidiaries shall

(1) pledge or mortgage any of their assets, other than liens to the United States or Canadian Governments or (2) borrow any money, except under said loans, and except for monies borrowed from the Parent Corporation or the subsidiary's parent company, or (3) execute any obligations except within the limit of consolidated total liabilities specified above in subparagraph (b) of this Paragraph Sixth, or (4) sell any accounts receivable or debtor's paper with recourse to the Parent Corporation or to any of its subsidiaries.

(f) Neither the Parent Corporation nor any of its subsidiaries shall incur (nor permit to remain outstanding in any subsidiary hereafter acquired) any direct or contingent debts other than the Loans herein provided for, except such debts as arise in current operations, including the purchase and sale of distilled and fermented liquors, grain, and materials necessary in the distillation and sale of spirits, labor, taxes, and the like.

(g) Neither the Parent Corporation nor any subsidiary shall undertake any transaction by way of lending money or lending credit (as distinguished from sales on credit) to any person, firm, or corporation other than the Parent Corporation or one of its subsidiaries, except that the Parent Corporation and subsidiaries may lend money or credit or given financial assistance to customers within reasonable limits not exceeding Five hundred thousand Dollars (\$500,000) in the aggregate at any one time outstanding, when undertaken in the interests of the business of the Parent Corporation and its subsidiaries.

(h) Neither the Parent Corporation nor any of its subsidiaries shall enter into any transaction except such as may be incidental to the manufacture and sale of distilled and fermented liquors, whether involving the credit of such party or not

(i) Neither the Parent Corporation nor any subsidiary shall merge, consolidate or combine with or sell or lease all or substantially all of its assets to another corporation or company, except a wholly owned subsidiary of the Parent Company.



**SEVENTH:** "Subsidiary," as used in this Agreement, means any corporation 70% of more of whose voting stock is owned at the time by the Parent Corporation or by a subsidiary of the Parent Corporation.

All amounts stated in Dollars in this Agreement are in United States currency and all items in foreign currency shall for the purpose of this Agreement be converted into United States currency at the rate of exchange current at the time of the calculation, unless some other basis shall have been agreed to by the Bank Agent.

**EIGHTH:** It is hereby agreed, jointly and severally, by the parties hereto other than the Banks, that the Parent Corporation shall furnish to each of the Banks quarterly (or oftener if required by the Bank Agent), a detailed consolidated balance sheet, consolidated earning statement, statement of consolidated net quick assets and statement of consolidated total liabilities calculated as provided in the subparagraphs (a) and (b) and Paragraph SIXTH hereof, such balance sheet and statements to be certified by the Parent Corporation acting by its President or Treasurer, and shall furnish once a year (or oftener if required by the Bank Agent) a similar balance sheet and statements and a complete audited report to be certified by independent public accountants satisfactory to the Banks. The quarterly balance sheet and statements to be certified by the officers of the Parent Corporation shall be furnished within 60 days after the close of the fiscal quarter, and the annual balance sheet and statements within 90 days after the close of the fiscal year. The parties hereto, other than the Banks, further covenant and agree, jointly and severally, to furnish with reasonable promptness such other data as the Bank Agent may reasonably request.

**NINTH:** If there shall be any breach of any of the terms or covenants of this Agreement on the part of any of the parties hereto other than the Banks, then unless the breach is cured within 20 days after written notice to the Parent Corporation and the Borrowers from the Banks or from the Bank Agent, the term of said Loans shall, at the election of the Banks forthwith cease and determine, and any and all liabilities under this Agreement or incurred pursuant thereto to the Banks shall become at once due and payable without notice, presentation or demand of payment, and without any credit or time allowed by this Agreement or any instrument evidencing any such liability. The written notice provided for herein shall be sent by registered mail, addressed to the Parent Corporation and the Borrowers at the addresses referred to below, and during said twenty-day period after the giving of such written notice, if the Bank Agent so determines, the Banks shall not be required to make any additional advances under said Loans.

The Bank Agent referred to in this Agreement shall be Mr. Louis A. Keidel, of Bankers Trust Company and in case of Mr. Keidel's disability or inability or failure for any reason to act, Mr. Hugh H. McGee, of Bankers Trust Company, and Mr. L. P. Christenson, of Manufacturers Trust Company, shall jointly act as Bank Agent. In case of Mr. McGee's disability or inability or failure for any reason to act Mr. J. B. Everett, of Bankers Trust Company, shall act in his place, and in case of Mr. Christenson's disability or inability or failure for any reason to act, Mr. R. A. Lockwood, of Manufacturers Trust Company, shall act in his place. In case both Mr. McGee and Mr. Everett shall be unable or for any reason shall fail to act at any time during the life of this Agreement, their successors shall be appointed in writing by the then President of Bankers Trust Company, and in case Mr. Christenson and Mr. Lockwood shall be unable to for any reason shall fail to act at any time during the life of this Agreement, their successors shall be appointed in writing by the then President of Manufacturers Trust Company. The Bank Agent is authorized on behalf of the Banks to determine for them when any breach of any of the terms or covenants of this Agreement by any of the parties hereto other than the Banks shall have occurred, and is further authorized thereafter on behalf of the Banks in accordance with the terms hereof to terminate the Loans and mature the obligations hereunder, which action (joined in by both if two persons are then acting as Bank Agent) shall be binding upon the Banks. Any such action of the Bank Agent shall be evidenced in writing and addressed to the Parent Corporation at its office, 1430 Peel Street, Montreal, and to all other Borrowers at 405 Lexington Avenue, New York City, and shall be operative when sent by registered mail, postage prepaid.

Whenever in this Agreement the action or consent of the Bank Agent is required or provided for, the Banks agree that they will act in pursuance of such action or consent of the Bank Agent, or in the absence of action or consent of the Bank Agent, by unanimous consent or action of the Banks themselves.

TENTH: Upon the insolvency of, or upon the suspension of business of, or the filing of a voluntary petition in bankruptcy by, or the filing of a voluntary petition pursuant to or purporting to be pursuant to the Acts of Congress relating to bankruptcy or amendatory of such Acts by, or an adjudication of bankruptcy of, or the making of an assignment for the benefit of creditors by or the consent by any one of the parties of the first part to the appointment of any receiver of or of a substantial part of the property of such party or (if the Bank Agent above referred to shall so determine) of any one or more subsidiaries constituting so substantial a part of the enterprise as seriously to affect the business as a whole, then and in any such event, any and all liabilities under this Agreement or incurred pursuant hereto shall become at once due and payable without notice, presentation, or demand of payment, and notwithstanding any credit or time allowed by this Agreement or any instrument evidencing any of said liabilities and the term of the said Loans shall thereupon forthwith cease.

Upon the entry of an order pursuant to or purporting to be pursuant to the Acts of Congress relating to bankruptcy or amendatory of such Acts, approving a petition or answer seeking reorganization of, or of an order appointing any receiver of or of a substantial part of the property of, or the issuance of a warrant of attachment against the property of, any one of the parties of the first part or any one or more subsidiary constituting so substantial a part of the enterprise as in the determination of the Bank Agent shall seriously affect the business as a whole, then and in that event unless such order approving a petition or answer seeking reorganization, or order appointing a receiver as dismissed or stayed within 90 days from its entry (during which period, if the Bank Agent so determines, the Banks shall not be required to make any additional advances under said Loans) or such attachment be dismissed or bonded within a period of thirty days from its levy, then at the option of the Banks, acting through the aforesaid Bank Agent, any and all liabilities under this Agreement or incurred pursuant hereto shall become at once due and payable without notice, presentation or demand of payment, and notwithstanding any credit or time allowed by this Agreement or any instrument evidencing any of said liabilities, and the terms of said Loans shall thereupon forthwith cease. Nothing in this paragraph shall limit any rights which the Banks might otherwise have.

ELEVENTH: No delay on the part of any of the parties in exercising any of the rights hereunder, and any one or more failures to act, and no partial or single exercise thereof, shall constitute a waiver of such rights.

TWELFTH: The Parent Corporation and each of the other parties of the first part jointly and severally agree that the first moneys advanced hereunder shall be used by them to effect repayment of certain notes payable to Bankers Trust Company and Manufacturers Trust Company in an aggregate amount of \$6,250,000, plus interest, and hereby authorize and request Bankers Trust Company, on its behalf and on behalf of Manufacturers Trust Company, to effect such repayment for account of the parties of the first part out of the first sums advanced hereunder.

THIRTEENTH: It is understood that the presently outstanding note or notes of the Parent Corporation and/or the other parties of the first part, due November 2, 1941, in an aggregate principal amount of Five million Dollars (\$5,000,000), shall continue to remain outstanding and shall be unaffected by this Agreement.

FOURTEENTH: This Agreement may be executed in any number of counterparts which, together shall constitute but one Agreement.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their proper officers thereunto duly authorized as of the day and year first above written.

DISTILLERS CORPORATION-SEAGRAMS, LIMITED,  
By \_\_\_\_\_, *President.*

Attest:

\_\_\_\_\_  
*Assistant Treasurer.*

JOSEPH E. SEAGRAM & SONS, INC.,  
(an Indiana corporation)  
By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_  
*Assistant Treasurer.*

JOSEPH E. SEAGRAM & SONS, INC.,  
(a Delaware corporation)  
By \_\_\_\_\_, *Vice President*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*JOSEPH E. SEAGRAM & SONS, INC.,  
(a Maryland corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*SEAGRAM-DISTILLERS CORPORATION,  
(a Delaware corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*MARYLAND DISTILLERY, INC.,  
(a Maryland corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*THE CALVERT DISTILLING CO.,  
(a Maryland corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*CALVERT-DISTILLERS CORPORATION,  
(a Maryland corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*LINCOLN INN DISTILLING CO., INC.,  
(a Delaware corporation)By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*

JULIUS KESSLER DISTILLING CO., INC.,

By \_\_\_\_\_, *Vice President.*

Attest:

\_\_\_\_\_,  
*Assistant Treasurer.*

BANKERS TRUST COMPANY,

By \_\_\_\_\_.

Attest:

MANUFACTURERS TRUST COMPANY,

By \_\_\_\_\_.

Attest:

FIRST NATIONAL BANK OF BOSTON,

By \_\_\_\_\_.

Attest:

CONTINENTAL ILLINOIS NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO,

By \_\_\_\_\_.

Attest:

BANK OF THE MANHATTAN COMPANY,

By \_\_\_\_\_.

Attest:

PENNSYLVANIA COMPANY FOR INSURANCE ON  
LIVES AND GRANTING ANNUITIES,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

SECURITY-FIRST NATIONAL BANK OF LOS ANGELES,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

THE FIRST NATIONAL BANK OF CHICAGO,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

FIRST NATIONAL BANK, ATLANTA,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

NATIONAL BANK OF DETROIT,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

FIRST NATIONAL BANK IN ST. LOUIS,

by \_\_\_\_\_.

Attest: \_\_\_\_\_.

NORTHWESTERN NATIONAL BANK AND TRUST  
COMPANY, MINNEAPOLIS,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

THE NATIONAL CITY BANK OF CLEVELAND,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

HARRIS TRUST &amp; SAVINGS BANK, CHICAGO,

by \_\_\_\_\_.

Attest: \_\_\_\_\_.

FIRST NATIONAL BANK, PHILADELPHIA,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

CITIZENS UNION NATIONAL BANK, LOUISVILLE,  
KENTUCKY,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

FIRST NATIONAL BANK OF JERSEY CITY,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

FIRST NATIONAL BANK OF BALTIMORE,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

THE BOATMEN'S NATIONAL BANK,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

EMPIRE TRUST COMPANY,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

UNION TRUST COMPANY OF MARYLAND,

By \_\_\_\_\_.

Attest: \_\_\_\_\_.

## DISTILLERS CORPORATION—SEAGRAMS LIMITED (CANADA)

## DIRECTORS AND COMPANIES WITH WHICH THEY ARE CONNECTED

## GIBSON

MANUFACTURERS TRUST CO.  
 BROOKLYN-MANHATTAN TRANSIT CORP.  
 EAGLE INDEMNITY CO.  
 PATTISON & BROWNS, INC.  
 AEOLIAN AMERICAN CO.  
 ROYAL INDEMNITY CO., OF NEW YORK  
 SHERIDAN-WYOMING COAL CO.  
 TEXTILE BANKING CO.  
 UNITED STATES DISTRIBUTING CORP.  
 NEW ENGLAND PUBLIC SERVICE CO.  
 PITTSTON CO.  
 SHUR-ON OPTICAL CO.  
 INDIAN REFINING CO.  
 WESTERN ELECTRIC CO., INC.  
 INTERBOROUGH RAPID TRANSIT 6% NOTEHOLDERS  
 PROTECTIVE COMM.  
 INTERNATIONAL HOLDING CO. OF GARWOOD  
 NATIONAL BONDHOLDERS CORP.  
 NEW YORK RAPID TRANSIT CORP.  
 RECONSTRUCTION FINANCE CORP.  
 REORGANIZATION MANAGERS FOR NATIONAL  
 SURETY CO.  
 AMERICAN COMMITTEE OF SHORT TERM CREDI-  
 TORS OF GERMANY  
 UNITED BISCUIT CO. OF AMERICA  
 UNITED STATES TRUCKING CORP.  
 PARAMOUNT PICTURES, INC.

## FRIEL

## SCHWENGEL

## BRONFMAN, A.

BRINTCAN INVESTMENTS, LTD.

## BRONFMAN, S.

GLOBE REDDING CO., LTD.  
 BRINTCAN INVESTMENTS, LTD.

## CLELAND

JORDAN WINE CO., LTD.  
 J. A. FOREST & CO., LTD.

## GEOFFRION

GEOFFRION & PRUD'HOMME  
 ALUMINIUM LIMITED  
 CANADA LIFE ASSURANCE CO.  
 BEAUHARNOIS POWER CORP. & SUBSIDIARIES  
 TITLE GUARANTEE & TRUST CORP.  
 CATELLI FOOD PRODUCTS, LTD.  
 SAGUENAY POWER CO., LTD.  
 COMPAGNIE BELGO-CANADIENNE DE CREDIT, LTEE.  
 WINDSOR HOTEL CO., LTD.  
 NATIONAL TRUST CO., LTD.

## WILLKIE

HIRAM WALKER-GOODERHAM & WORTS LTD.  
 HIRAM WALKER & SONS LTD.  
 HIRAM WALKER & SONS INC.  
 HIRAM WALKER & SONS DISTILLERIES INC.  
 HIRAM WALKER INC.  
 HIRAM WALKER & SONS (NEW JERSEY), INC.  
 HIRAM WALKER & SONS (WESTERN) INC.  
 HIRAM WALKER (DELAWARE) INC.  
 HIRAM WALKER & SONS GRAIN CORP., LTD.  
 JEFFERSON TRUST & SAVINGS BANK, PEORIA, ILL.  
 CENTRAL ILLINOIS LIGHT CO.

## McINNERNEY

NATIONAL DAIRY PRODUCTS CORP.  
 AMERICAN WATER WORKS & ELECTRIC CO.  
 TOBACCO PRODUCTS CORP.  
 UNITED STORES CORP.  
 WARD BAKING CO.  
 LEHIGH VALLEY RY.  
 GIMBEL BROTHERS, INC.  
 NEW JERSEY, INDIANA & ILLINOIS RY. CO.  
 MCLELLAN STORES CO.  
 B. F. GOODRICH CO.  
 WEST PENN ELECTRIC CO.  
 NEW YORK WORLD'S FAIR 1939, INC.  
 FAIRFIELD WESTERN MARYLAND DAIRY CORP.

SOURCE: TAKEN FROM "POOR'S REGISTER OF  
 DIRECTORS OF THE UNITED STATES AND CANADA,"  
 1928 EDITION, AND FEDERAL ALCOHOL ADMIN-  
 ISTRATION RECORDS.



## EXHIBIT No. 413

[Submitted by Joseph E. Seagram &amp; Sons, Inc.]

## SEAGRAM'S—METROPOLITAN NEW YORK DISTRICT

Case prices effective January 27, 1939, and established under the fair-trade contract for sale to liquor licensees

Brand name	Age	Proof	Quart	Fifth	Pint	½ pint
Bottled-in-Bond Rye Whiskies (under Canadian Government supervision):						
Ancient Bottle Rye.....	5 Yrs.....	100	\$35.95	\$29.60	\$36.80	\$38.55
Pedigree De Luxe Rye.....	8 Yrs.....	100	45.50		46.35	48.00
Bottled-in-Bond Bourbon Whiskies (under Canadian Government supervision):						
Seagram's Bourbon.....	5 Yrs.....	100	35.95	29.60	36.80	38.55
Pedigree De Luxe Bourbon.....	8 Yrs.....	100	45.50		46.35	48.00
Seagram's "83": Canadian Whisky.....	5 Yrs.....	90	34.70	28.30	35.15	
Seagram's V. O.: Canadian Blended Whisky.....	6 Yrs.....	86.8	35.95	29.60	36.80	
Seagram's Crown Blended Whiskies:						
Seagram's 5 Crown (72½ percent Grain Neutral Spirits).....		90	19.95	16.25	20.57	
Seagram's 7 Crown (60 percent Grain Neutral Spirits).....		90	24.60	19.95	25.25	
Seagram's Crown Special (Bars only) (72½ percent Grain Neutral Spirits).....		90	19.75			
Seagram's Distilled London Dry Gins (distilled from 100 percent Grain Neutral Spirits):						
King Arthur London Dry Gin.....		90	15.35	12.40	16.10	
Seagram's Superior Gin (Bars only).....		90	13.95			
Ancient Bottle Gin.....		90		17.14		
Kessler's Private Blend (75 percent Grain Neutral Spirits).....		90	17.55		18.00	
Kessler's Distilled Dry Gin (distilled from 100 percent Grain Neutral Spirits).....		85	13.70	11.15	14.50	

## Quantity Discounts:

5 Cases of Assorted Seagram and/or Kessler Products, 2 percent.

15 Cases of Assorted Seagram and/or Kessler Products, 3 percent.

25 Cases of Assorted Seagram and/or Kessler Products, 4 percent.

1 percent Discount for cash in 10 days.

Above prices include New York State tax of \$1.00 per wine gallon.

The above price list applies to the Metropolitan New York District comprising Manhattan, Kings, Bronx, Queens, Nassau, Suffolk, Richmond, and Westchester Counties.

(This list supersedes all previous price lists.)

Minimum consumer bottle prices established under the fair-trade contract effective Feb. 11, 1939

Brand name	Quart	Fifth	Pint	½ pint
Bottled-in-Bond Rye Whiskies (under Canadian Government supervision):				
Ancient Bottle Rye.....	\$4.20	\$3.45	\$2.15	\$1.15
Pedigree De Luxe Rye.....	5.30		2.70	1.40
Bottled-in-Bond Bourbon Whiskies (under Canadian Government supervision):				
Seagram's Bourbon.....	4.20	3.45	2.15	1.15
Pedigree De Luxe Bourbon.....	5.30		2.70	1.40
Seagram's "83": Canadian Whisky.....	4.05	3.30	2.05	
Seagram's V. O.: Canadian Blended Whisky.....	4.20	3.45	2.15	
Seagram's Crown Blended Whiskies:				
Seagram's 5 Crown (72½ percent Grain Neutral Spirits).....	2.33	1.90	1.20	
Seagram's 7 Crown (60 percent Grain Neutral Spirits).....	2.87	2.33	1.48	
Seagram's Crown Special (72½ percent Grain Neutral Spirits).....	2.45			
Seagram's Distilled London Dry Gins (distilled from 100 percent Grain Neutral Spirits):				
King Arthur London Dry Gin.....	1.80	1.45	.95	
Seagram's Superior Gin.....	2.00			
Ancient Bottle Gin.....		2.00		
Kessler's Private Blend (75 percent Grain Neutral Spirits).....	2.05		1.05	
Kessler's Distilled Dry Gin (Distilled from 100 percent Grain Neutral Spirits).....	1.60	1.30	.85	

Discount 10 percent per Case sale of Full or Assorted Seagram and/or Kessler Products.

Above prices include New York State tax of \$1.00 per wine gallon.

The above price list applies to the Metropolitan New York District comprising Manhattan, Kings, Bronx, Queens, Nassau, Suffolk, Richmond, and Westchester Counties.

(This list supersedes all previous price lists.)

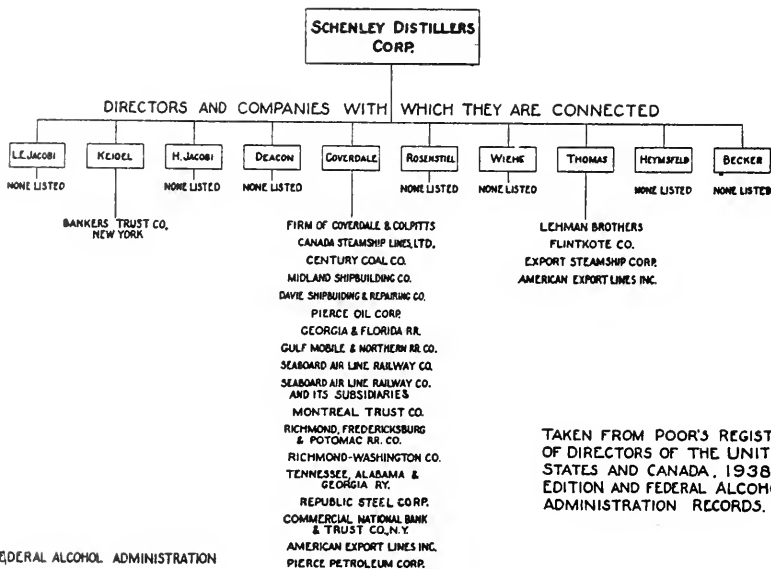
## EXHIBIT No. 414

[Submitted by James E. Friel, vice president, Joseph E. Seagram &amp; Sons, Inc.]

## ITEM V.—Distribution list prices to wholesalers: Quart size only

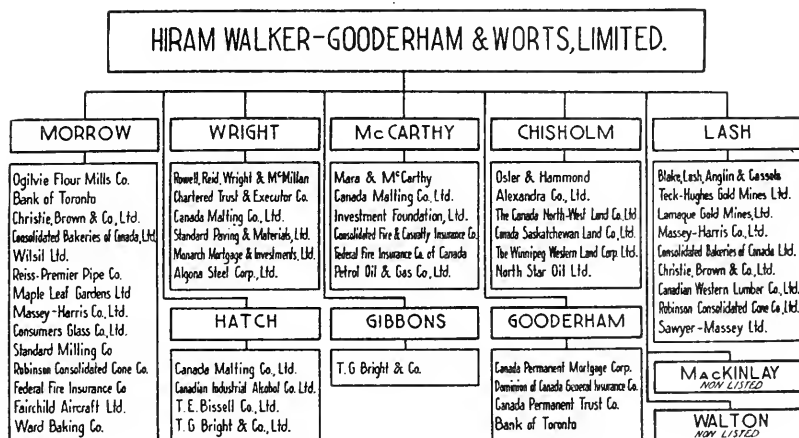
Brand	Aug. 1934	Nov. 1934	Mar. 1935	Aug. 1935	Sept. 1935	Jan. 1936	July 1936	Nov. 1937	July 1938
Seagram Distillers Corporation:									
(In Bond.)									
Ancient Bottle Rye.....	18.00		17.00			14.90			13.00
Pedigree.....	25.00		24.00			24.00			21.00
Seagram's Bourbon.....	16.00		16.00			14.90			13.00
"VO".....	17.00		16.50			14.90			13.00
"83".....	14.50		14.50			13.90			12.00
Silver Dollar.....							11.50		
Five Crown.....	19.00	19.00	19.00	19.00		15.40			14.68
Seven Crown.....	23.00	23.00	23.00	23.00		19.70			18.83
Bar Special.....						14.00			
Crown Special.....		19.50	19.00	19.00		15.40			14.18
Kessler Private.....				12.00		12.00			11.68
Kessler Preferred.....				14.00		13.40			
Old Man River.....						12.00			
(All prices are delivered, New York or Chicago.)									
Calvert Distillers Corporation:									
Calvert Whiskey.....	23.80								
Special Reserve.....			20.23						
Calvert Reserve.....					20.23	17.75		18.00	18.43
Calvert Special.....			16.40			13.75		14.35	14.43
Old Drum.....	12.03				11.50	11.75		12.00	11.93
Private Stock.....					15.60	13.75		14.25	13.93
Kentucky Pride.....								12.65	13.93
Carstairs Bros. Distilling Co., "no.:									
"1788".....									21.05
Lincoln Inn.....									12.93
Harmony.....									11.93
Grandsire.....									11.93
Silver Dollar, 90°.....									9.68
Silver Dollar, 86°.....									9.25

## EXHIBIT No. 415





## EXHIBIT No. 416

DIRECTORS AND COMPANIES  
WITH WHICH THEY ARE CONNECTED.

Taken from 1938 Edition of Poor's Register of Directors of the United States and Canada,  
and Federal Alcohol Administration Records

## EXHIBIT No. 417

## FINANCIAL DATA—CONSOLIDATED: FOUR DISTILLING COMPANIES

[Compiled by Federal Alcohol Administration from published annual reports of Schenley Distillers Corp.,  
National Distillers Products Corp., Seagrams, Ltd., and Hiram Walker-Gooderham & Worts, Ltd.]

	1934	1935	1936	1937	1938
<b>Assets:</b>					
Receivables.....	\$27,399,060	\$50,204,062	\$56,737,072	\$75,331,222	\$76,063,391
Inventories.....	50,146,019	86,079,997	109,027,132	139,651,582	143,777,766
Plant and equipment (net).....	18,501,159	34,099,246	44,841,786	53,160,002	57,415,299
Other (goodwill, etc.).....	21,780,320	18,598,631	18,923,941	20,021,103	10,710,239
<b>Total.....</b>	<b>117,826,558</b>	<b>188,981,936</b>	<b>229,529,931</b>	<b>288,163,909</b>	<b>287,966,695</b>
<b>Liabilities:</b>					
Bank loans.....	10,253,687	24,574,914	45,300,000	64,631,712	63,672,730
Payables.....	16,579,923	25,728,641	34,922,266	37,623,386	26,433,531
Other (capital surplus).....	2,407,516	1,426,664	1,419,164	6,063,019	6,063,019
Capital stock.....	51,971,448	91,287,808	93,912,788	112,592,968	114,092,938
Earned surplus.....	36,613,984	145,963,909	53,975,713	67,252,824	77,704,447
<b>Total.....</b>	<b>117,826,558</b>	<b>188,981,936</b>	<b>229,529,931</b>	<b>288,163,909</b>	<b>287,966,695</b>
<b>Dividends.....</b>	<b>\$1,011,025</b>	<b>\$4,534,560</b>	<b>\$14,439,774</b>	<b>\$12,817,581</b>	<b>\$12,421,854</b>
Companies reporting.....	3	3	4	4	4
Companies paying dividends.....	1	2	3	3	4
<b>Sales (net).....</b>	<b>\$90,331,984</b>	<b>\$115,642,400</b>	<b>\$265,204,390</b>	<b>\$291,679,832</b>	<b>\$282,884,973</b>
Companies reporting.....	2	2	4	4	4
<b>Net profits—after taxes.....</b>	<b>\$18,105,728</b>	<b>\$18,210,157</b>	<b>\$24,987,842</b>	<b>\$18,105,728</b>	<b>\$25,499,153</b>
Companies reporting.....	2	3	4	4	4

<sup>1</sup> Reduced by \$11,400,000 by write off against surplus by National.

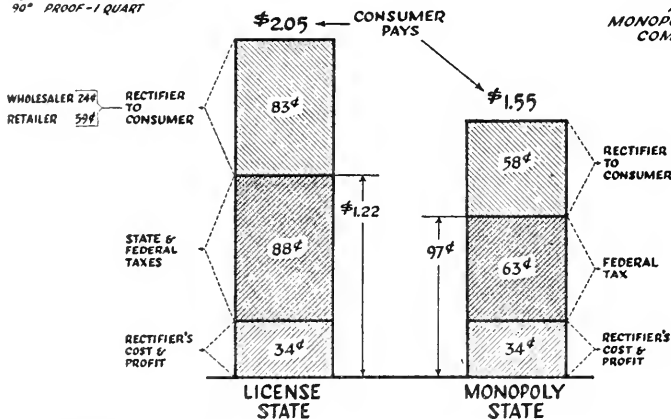
<sup>2</sup> Reduced by \$9,491,525 by write down of goodwill, etc., to \$1 by Hiram Walker.

## EXHIBIT No. 418

# CONSUMER COST OF POPULAR SPIRIT BLEND

BLENDED WHISKEY  
 20% 124 YR. OLD STRT. WHISKEY  
 5% 5 YR. OLD STRT. WHISKEY  
 75% GRAIN NEUTRAL SPIRITS  
 90° PROOF - 1 QUART

LICENSE STATE  
 AND  
 MONOPOLY STATE  
 COMPARED



Federal Alcohol Administration - 2-1-39

BASED  
 ON  
 CURRENT LISTINGS

## EXHIBIT No. 419

[Submitted by Col. McC. Bullington, Va. A. B. C. Board]

Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No.  
 50—Effective February 1, 1939—Supersedes All Previous Price Lists

Code	Brand	Age	Proof	Size	Retail price
STRAIGHT WHISKEY—BOURBON					
39	Grand National.....	24 Mo.....	90	Qt.....	\$1.25
40	Grand National.....	24 Mo.....	90	Pt.....	.65
17	Windsor.....	24 Mo.....	90	Qt.....	1.30
18	Windsor.....	24 Mo.....	90	Pt.....	.70
61	Frontier.....	24 Mo.....	90	Qt.....	1.35
62	Frontier.....	24 Mo.....	90	Pt.....	.70
11	Mint Springs.....	24 Mo.....	90	Qt.....	1.35
12	Mint Springs.....	24 Mo.....	90	Pt.....	.70
63	Golden Eagle.....	24 Mo.....	100	Qt.....	1.45
64	Golden Eagle.....	24 Mo.....	100	Pt.....	.75
1	Virginia Gentleman.....	24 Mo.....	90	Qt.....	1.45
2	Virginia Gentleman.....	24 Mo.....	90	Pt.....	.75
21	Crab Orchard.....	24 Mo.....	90	Qt.....	1.45
22	Crab Orchard.....	24 Mo.....	90	Pt.....	.75
3	Falling Creek.....	36 Mo.....	90	Qt.....	1.45
4	Falling Creek.....	36 Mo.....	90	Pt.....	.75
29	Old American.....	36 Mo.....	90	Qt.....	1.50
30	Old American.....	36 Mo.....	90	Pt.....	.80
35	Bottoms Up.....	24 Mo.....	90	Qt.....	1.50
36	Bottoms Up.....	24 Mo.....	90	Pt.....	.80
23	Shipping Port.....	24 Mo.....	90	Qt.....	1.55
24	Shipping Port.....	24 Mo.....	90	Pt.....	.80
19	Ten High.....	24 Mo.....	90	Qt.....	1.55
20	Ten High.....	24 Mo.....	90	Pt.....	.85
41	Old Quaker.....	36 Mo.....	90	Qt.....	1.60
42	Old Quaker.....	36 Mo.....	90	Pt.....	.85
37	Cream of Kentucky.....	36 Mo.....	90	Qt.....	1.60
38	Cream of Kentucky.....	36 Mo.....	90	Pt.....	.85
43	Fairfax County.....	36 Mo.....	90	Qt.....	1.60
44	Fairfax County.....	36 Mo.....	90	Pt.....	.85
31	Old Polk.....	24 Mo.....	100	Qt.....	1.65
32	Old Polk.....	24 Mo.....	100	Pt.....	.85

*Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No. 50—Effective February 1, 1939—Supersedes All Previous Price Lists—Contd.*

Code	Brand	Age	Proof	Size	Retail price
STRAIGHT WHISKEY—BOURBON—continued					
57	Glenmore Gold Label .....	30 Mo. ....	100	Qt. ....	\$1.65
58	Glenmore Gold Label .....	30 Mo. ....	100	Pt. ....	.90
15	Old Lewis Hunter .....	36 Mo. ....	90	Qt. ....	1.85
16	Old Lewis Hunter .....	36 Mo. ....	90	Pt. ....	.95
51	Old Mr. Boston .....	36 Mo. ....	90	Qt. ....	1.85
52	Old Mr. Boston .....	36 Mo. ....	90	Pt. ....	1.00
5	Century Club .....	48 Mo. ....	90	Qt. ....	1.90
6	Century Club .....	48 Mo. ....	90	Pt. ....	1.00
STRAIGHT WHISKEY—RYE					
7	Town Tavern .....	24 Mo. ....	90	Qt. ....	1.30
8	Town Tavern .....	24 Mo. ....	90	Pt. ....	.70
47	Fleet Street .....	24 Mo. ....	90	Qt. ....	1.50
48	Fleet Street .....	24 Mo. ....	90	Pt. ....	.80
33	Ruxton Rye .....	24 Mo. ....	90	Qt. ....	1.50
34	Ruxton Rye .....	24 Mo. ....	90	Pt. ....	.80
45	Maryland Hunt Cup .....	27 Mo. ....	90	Qt. ....	1.55
46	Maryland Hunt Cup .....	27 Mo. ....	90	Pt. ....	.80
25	Wolf Creek .....	24 Mo. ....	90	Qt. ....	1.55
26	Wolf Creek .....	24 Mo. ....	90	Pt. ....	.80
17	Barclay's Private Stock .....	24 Mo. ....	90	Qt. ....	1.55
14	Barclay's Private Stock .....	24 Mo. ....	90	Pt. ....	.85
9	Sherbrook .....	27 Mo. ....	93	Qt. ....	1.60
10	Sherbrook .....	27 Mo. ....	93	Pt. ....	.85
49	Rittenhouse Square .....	36 Mo. ....	100	Qt. ....	1.65
50	Rittenhouse Square .....	36 Mo. ....	100	Pt. ....	.85
27	Rewco .....	30 Mo. ....	90	Qt. ....	1.65
28	Rewco .....	30 Mo. ....	90	Pt. ....	.85
55	Old Mr. Boston .....	36 Mo. ....	90	Qt. ....	1.85
56	Old Mr. Boston .....	36 Mo. ....	90	Pt. ....	1.00
59	Ancient Age .....	48 Mo. ....	90	Qt. ....	2.10
60	Ancient Age .....	48 Mo. ....	90	Pt. ....	1.10
STRAIGHT WHISKEY—CORN					
67	Colonel Glen .....	24 Mo. ....	90	Qt. ....	1.30
68	Colonel Glen .....	24 Mo. ....	90	Pt. ....	.70
53	Midwest Corn .....	24 Mo. ....	100	Qt. ....	1.35
54	Midwest Corn .....	24 Mo. ....	100	Pt. ....	.70
65	Indian Queen .....	24 Mo. ....	90	Qt. ....	1.35
66	Indian Queen .....	24 Mo. ....	90	Pt. ....	.70
69	Cotton Picker .....	24 Mo. ....	100	Qt. ....	1.40
70	Cotton Picker .....	24 Mo. ....	100	Pt. ....	.75
WHISKEY—BOURBON					
93	Old Whig .....	18 Mo. ....	90	Qt. ....	1.25
94	Old Whig .....	18 Mo. ....	90	Pt. ....	.65
89	Invader .....	12 Mo. ....	90	Qt. ....	1.25
90	Invader .....	12 Mo. ....	90	Pt. ....	.65
91	Two Naturals .....	12 Mo. ....	90	Qt. ....	1.30
92	Two Naturals .....	12 Mo. ....	90	Pt. ....	.70
80	Ace Brand .....	18 Mo. ....	85	Pt. ....	.60
WHISKEY—RYE					
83	Stillbrook .....	18 Mo. ....	90	Qt. ....	1.25
84	Stillbrook .....	18 Mo. ....	90	Pt. ....	.65
88	Golden Harvest .....	12 Mo. ....	85	Pt. ....	.60
BLENDED WHISKEY					
101	Brigadier .....		90	Qt. ....	1.30
102	Brigadier .....		90	Pt. ....	.70
109	Briarcliff .....		90	Qt. ....	1.35
110	Briarcliff .....		90	Pt. ....	.70
103	Belle of Nelson .....		90	Qt. ....	1.40
104	Belle of Nelson .....		90	Pt. ....	.75
115	Cobb's Creek .....		90	Qt. ....	1.45
116	Cobb's Creek .....		90	Pt. ....	.75
111	G. & W. 2 Star .....		90	Qt. ....	1.50
112	G. & W. 2 Star .....		90	Pt. ....	.80
125	Old Mr. Boston Rocking Chair .....		90	Qt. ....	1.55
126	Old Mr. Boston Rocking Chair .....		90	Pt. ....	.80
113	Kessler's Private Blend .....		90	Qt. ....	1.55
114	Kessler's Private Blend .....		90	Pt. ....	.85
127	Old Treasure .....		90	Qt. ....	1.65
128	Old Treasure .....		90	Pt. ....	.85
119	G. & W. 5 Star .....		90	Qt. ....	1.80
120	G. & W. 5 Star .....		90	Pt. ....	.95

Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No.  
50—Effective February 1, 1939—Supersedes All Previous Price Lists—Contd.

Code	Brand	Age	Proof	Size	Retail price
BLENDED WHISKEY—continued					
117	Calvert's Special		90	Qt.	\$1.85
118	Calvert's Special		90	Pt.	1.00
123	Wilson—That's All		90	Qt.	1.85
124	Wilson—That's All		90	Pt.	1.00
105	Seagram's 5 Crown		90	Qt.	1.90
106	Seagram's 5 Crown		90	Pt.	1.00
129	Three Feathers		90	Qt.	1.90
130	Three Feathers		90	Pt.	1.00
121	Calvert's Reserve		90	Qt.	2.40
122	Calvert's Reserve		90	Pt.	1.25
107	Seagram's 7 Crown		90	Qt.	2.40
108	Seagram's 7 Crown		90	Pt.	1.25
BLEND OF STRAIGHT WHISKEYS—BOURBON					
159	Tom Hardy		90	Qt.	1.65
160	Tom Hardy		90	Pt.	.85
161	Mattingly & Moore (M & M)		90	Qt.	1.70
162	Mattingly & Moore (M & M)		90	Pt.	.90
171	Old Tucker		90	Qt.	2.05
172	Old Tucker		90	Pt.	1.05
153	Golden Wedding		90	Qt.	2.30
154	Golden Wedding		90	Pt.	1.20
155	Paul Jones		90	Qt.	2.45
156	Paul Jones		90	Pt.	1.25
157	Four Roses		90	Qt.	2.85
158	Four Roses		90	Pt.	1.45
BLEND OF STRAIGHT WHISKEYS—RYE					
167	Old Oscar Pepper (O O P)		90	Qt.	1.90
168	Old Oscar Pepper (O O P)		90	Pt.	1.00
165	Gibson's XXXX		90	Qt.	2.30
166	Gibson's XXXX		90	Pt.	1.20
169	Private Stock Rye—Park & Tilford		92	Qt.	2.85
170	Private Stock Rye—Park & Tilford		92	Pt.	1.45
BOTTLED IN BOND WHISKEY—BOURBON					
207	Kentucky Tavern		100	Qt.	2.60
208	Kentucky Tavern		100	Pt.	1.35
217	Bonded Belmont		100	Qt.	2.65
218	Bonded Belmont		100	Pt.	1.40
201	Old Grand Dad		100	Qt.	3.10
202	Old Grand Dad		100	Pt.	1.60
203	Old Forester		100	Qt.	3.10
204	Old Forester		100	Pt.	1.60
213	Old Taylor		100	Qt.	3.10
214	Old Taylor		100	Pt.	1.60
BOTTLED IN BOND WHISKEY—RYE					
219	Philadelphia Rye		100	Qt.	2.40
220	Philadelphia Rye		100	Pt.	1.25
215	G. & W. Bonded Stock		100	Qt.	2.45
216	G. & W. Bonded Stock		100	Pt.	1.25
209	Gibson's		100	Qt.	2.65
210	Gibson's		100	Pt.	1.35
205	Mount Vernon		100	Qt.	2.75
206	Mount Vernon		100	Pt.	1.45
211	Old Overholt		100	Qt.	2.75
212	Old Overholt		100	Pt.	1.45
CANADIAN WHISKEY					
187	Seagram's V. O	6 Yr.	86.8	Qt.	3.65
188	Seagram's V. O	6 Yr.	86.8	Pt.	1.85
183	Canadian Club	6 Yr.	90.4	Qt.	3.75
184	Canadian Club	6 Yr.	90.4	Pt.	1.90
185	Hiram Walker's Private Stock	10 Yr.	90.4	Qt.	4.35
186	Hiram Walker's Private Stock	10 Yr.	90.4	Pt.	2.25
180	Seagram's Pedigree	8 Yr.	100	Pt.	2.40
SCOTCH WHISKEY					
269	Harvey's Special Blended			½ Qt.	\$2.75
265	King William IV			½ Qt.	2.80
275	Auld Glen Rossie			½ Qt.	3.00
290	Old Angus			½ Qt.	3.20

Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No.  
50—Effective February 1, 1939—Supersedes All Previous Price Lists—Contd.

Code	Brand	Age	Proof	Size	Retail price
SCOTCH WHISKEY—continued					
267	Peter Dawson			$\frac{1}{2}$ Qt.	\$3. 25
295	Black & White			$\frac{1}{2}$ Qt.	3. 25
296	Black & White			$\frac{1}{2}$ Pt.	1. 75
279	White Horse			$\frac{1}{2}$ Qt.	3. 25
280	White Horse			$\frac{1}{2}$ Pt.	1. 75
283	Dewar's White Label			$\frac{1}{2}$ Qt.	3. 25
293	Johnnie Walker Red Label			$\frac{1}{2}$ Qt.	3. 30
287	Sanderson's Vat 69			$\frac{1}{2}$ Qt.	3. 30
273	Martin's V. V. O.			$\frac{1}{2}$ Qt.	3. 30
289	Teacher's Highland Cream			$\frac{1}{2}$ Qt.	3. 35
297	Haig & Haig 5 Star			$\frac{1}{2}$ Qt.	3. 36
298	Haig & Haig 5 Star			Pt.	2. 15
281	Ballantine's 10 Year Old			$\frac{1}{2}$ Qt.	3. 65
271	Old Rarify 12 Year Old			$\frac{1}{2}$ Qt.	4. 25
277	Haig & Haig Pinched Decanter			$\frac{1}{2}$ Qt.	4. 50
291	Johnnie Walker Black Label			$\frac{1}{2}$ Qt.	4. 55
IRISH WHISKEY					
195	Bushmill's		90	$\frac{1}{2}$ Qt.	3. 25
196	John Jameson's 3 Star		90	$\frac{1}{2}$ Qt.	3. 40
IRISH AMERICAN WHISKEY					
197	William Jameson Irish American		86	$\frac{1}{2}$ Qt.	2. 05
GIN					
305	American		85	Qt.	1. 05
306	American		85	Pt.	. 55
307	Cavaller		85	Qt.	1. 05
308	Cavaller		85	Pt.	. 55
319	Rhythm		85	Qt.	1. 10
320	Rhythm		85	Pt.	. 60
317	Polo Club		85	Qt.	1. 10
318	Polo Club		85	Pt.	. 60
309	Dixie Belle		90	Qt.	1. 25
310	Dixie Belle		90	Pt.	. 65
315	Hiram Walker's London Dry		90	Qt.	1. 35
316	Hiram Walker's London Dry		90	Pt.	. 75
313	Gilbey's London Dry		90	Qt.	1. 45
314	Gilbey's London Dry		90	Pt.	. 80
301	Fleischmann's		90	Qt.	1. 55
302	Fleischmann's		90	Pt.	. 80
311	Old Mr. Boston		90	Qt.	1. 55
312	Old Mr. Boston		90	Pt.	. 80
303	Gordon's London Dry		94. 4	Qt.	1. 70
304	Gordon's London Dry		94. 4	Pt.	. 90
SLOE GIN					
519	DeKuyper's		60	$\frac{1}{2}$ Qt.	1. 25
520	DeKuyper's		60	Pt.	. 75
511	Jacquin's		70	$\frac{1}{2}$ Qt.	1. 30
512	Jacquin's		70	Pt.	. 80
513	Old Mr. Boston		70	$\frac{1}{2}$ Qt.	1. 55
514	Old Mr. Boston		70	Pt.	1. 00
FRUIT FLAVORED GIN					
528	R. & G.	Orange	80	Pt.	. 75
524	Jacquin's	Mint	70	Pt.	. 80
526	Old Mr. Boston	Orange	80	Pt.	1. 00
BRANDY GRAPE					
353	Val Bros.—Old Reserve	24 Mo.	90	$\frac{1}{2}$ Qt.	1. 50
354	Val Bros.—Old Reserve	24 Mo.	90	Pt.	. 95
351	Balboa		90	$\frac{1}{2}$ Qt.	1. 55
352	Balboa		90	Pt.	. 95
356	A. R. Morrow Bottled In Bond	6 Yr.	100	Pt.	1. 50
BRANDY APPLE					
367	Old Delaware Gold Label	24 Mo.	90	Qt.	1. 55
368	Old Delaware Gold Label	24 Mo.	90	Pt.	. 80
373	Peak of Virginia	24 Mo.	90	Qt.	1. 75
374	Peak of Virginia	24 Mo.	90	Pt.	. 90
375	Little Brown Jug	24 Mo.	100	Qt.	1. 20
376	Little Brown Jug	24 Mo.	100	Pt.	. 60
371	Captain Apple Jack	24 Mo.	90	Qt.	1. 85
372	Captain Apple Jack	24 Mo.	90	Pt.	. 95
365	Laird's 3 Star	30 Mo.	90	Qt.	1. 95

Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No.  
50—Effective February 1, 1939—Supersedes All Previous Price Lists—Contd.

Code	Brand	Age	Proof	Size	Retail price
BRANDY APPLE—continued					
366	Laird's 3 Star.....	30 Mo.....	90	Pt.....	\$1.00
369	Hildick White Label.....	24 Mo.....	100	Qt.....	2.45
370	Hildick White Label.....	24 Mo.....	100	Pt.....	1.30
378	Brandybrook.....	12 Mo.....	85	Pt.....	.60
BRANDY PEACH					
392	Old Delaware Gold Label.....	24 Mo.....	90	Pt.....	1.00
BRANDY—IMPORTED—COGNAC					
399	Martell.....		84	4/5 Qt.....	3.50
397	Hennessy 3 Star.....		84	4/5 Qt.....	3.50
395	Hennessy V. S. O. P. Over 20 Years Old.....		80	4/5 Qt.....	4.50
RUM—DOMESTIC					
401	Felton's Pilgrim.....		90	Qt.....	1.90
402	Felton's Pilgrim.....		90	Pt.....	1.00
RUM—IMPORTED					
419	Carloca Gold Label—Puerto Rico.....		86	4/5 Qt.....	1.55
420	Carloca Gold Label—Puerto Rico.....		86	Pt.....	.95
421	Don Q Gold Label—Puerto Rico.....		86	4/5 Qt.....	1.60
423	Government House Gold Label—Virgin Island.....		90	4/5 Qt.....	1.75
425	Bornn's Gold Label—Virgin Island.....		90	4/5 Qt.....	1.75
435	Bacardi Silver Label—Puerto Rico.....		89	4/5 Qt.....	1.85
427	One Dagger—Jamaica.....		97	4/5 Qt.....	2.95
431	Red Heart—Jamaica.....		90	4/5 Qt.....	2.95
429	Bacardi Gold Label—Cuba.....		89	4/5 Qt.....	3.70
COCKTAILS					
450	Martini.....(Jacquin)		70	Pt.....	.95
452	Side Car.....(Jacquin)		70	Pt.....	.95
454	Manhattan.....(Jacquin)		70	Pt.....	.95
456	Old Fashioned.....(Jacquin)		70	Pt.....	1.00
461	Martini Dry Club.....(Heublein)		71	4/5 Qt.....	1.70
463	Manhattan Club.....(Heublein)		65	4/5 Qt.....	1.95
465	Old Fashioned Club.....(Heublein)		80	4/5 Qt.....	1.95
457	Side Car Club.....(Heublein)		60	4/5 Qt.....	1.95
459	Dalquiri Club (Rum).....(Heublein)		70	4/5 Qt.....	1.95
467	Gold Medal Mint Julep.....(R. & G.)		80	4/5 Qt.....	1.95
CORDIALS—LIQUEURS—DOMESTIC					
Old Mr. Boston Line					
530	Apricot Nectar Liqueur.....		80	Pt.....	1.00
532	Peach Nectar Liqueur.....		80	Pt.....	1.00
534	Blackberry Nectar Liqueur.....		80	Pt.....	1.00
536	Rock & Rye.....		80	Pt.....	1.00
Jacquin Line					
551	Rock & Rye.....		70	Qt.....	1.65
552	Rock & Rye.....		70	Pt.....	.85
542	Apricot Nectar Liqueur.....		72	Pt.....	.90
546	Peach Nectar Liqueur.....		72	Pt.....	.90
548	Cherry Nectar Liqueur.....		72	Pt.....	.90
550	Blackberry Nectar Liqueur.....		72	Pt.....	.90
556	Kummel.....		70	Pt.....	.90
540	Annisette.....		64	4/5 Pt.....	.85
554	Jacquintro.....		80	4/5 Pt.....	.90
538	St. Dominic.....		80	4/5 Pt.....	.95
Leroux Line					
558	Rock & Rye.....		70	Pt.....	.90
566	Crema de Mentha, Green.....		65	4/5 Pt.....	.80
572	Crema de Mentha, White.....		65	4/5 Pt.....	.80
560	Apricot.....		70	4/5 Pt.....	.85
568	Crema de Cacao.....		60	4/5 Pt.....	.95
570	Triple Sec Curacao.....		80	4/5 Pt.....	.95
CORDIALS—LIQUEURS—IMPORTED					
581	Cointreau.....		80	4/5 Qt.....	4.15
583	Benedictine D. O. M.....		86	4/5 Qt.....	4.65
584	Benedictine D. O. M.....		86	3/4 Pt.....	2.50
585	Chartreuse—Yellow.....		86	4/5 Qt.....	4.30

Commonwealth of Virginia, Alcoholic Beverage Control Board Retail Price List No. 50—Effective February 1, 1939—Supersedes All Previous Price Lists—Contd.

Code	Brand	Age	Proof	Size	Retail price
<b>E. CUSENIER &amp; COMPANY</b>					
586	Freezomint Creme de Menthe, Green.....		60	1/2 Bot.....	\$1.55
588	Freezomint Creme de Menthe, White.....		60	1/2 Bot.....	1.55
590	Blackberry Liqueur.....		60	1/2 Bot.....	1.55
592	Creme de Cacao.....		54	1/2 Bot.....	1.80
596	Extra Sec Orange Curacao.....		84	1/2 Bot.....	1.60
594	Apricot Liqueur.....		70	1/2 Bot.....	1.65
598	Peach Liqueur.....		80	1/2 Bot.....	1.65
<b>PURE GRAIN ETHYL ALCOHOL</b>					
997	1 Qt. Container—Prices furnished on request.				
999	1 Gal. Container—Prices furnished on request.				

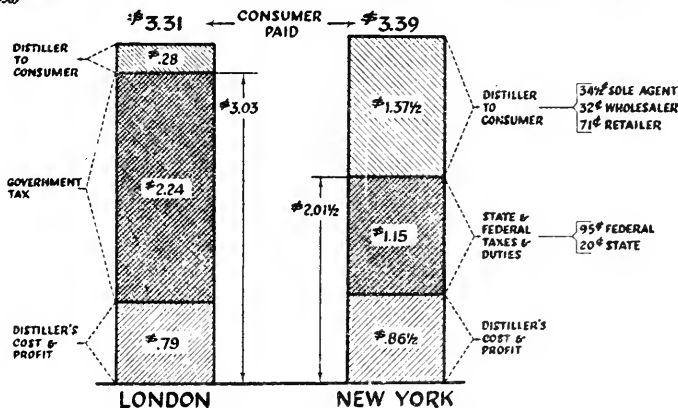
Ages as shown available immediately upon exhaustion of younger stocks in this store.

## EXHIBIT No. 420

# STANDARD CONSUMER COST OF SCOTCH WHISKEY LONDON-NEW YORK

STANDARD SCOTCH  
WHISKEY 8 YEARS OLD  
45 QUART-86.8° U.S. PROOF  
POUND STERLING = \$4.89  
(AVERAGE RATE, 1938)

STANDARD PRICE  
PER BOTTLE  
LONDON 3.31  
NEW YORK 3.39  
WASHINGTON 3.29-3.35  
SAN FRANCISCO 3.25-3.39



Federal Alcohol Administration-2-1-39

BASED ON CURRENT LISTINGS  
LONDON FIGURES OBTAINED BY CONVERSION OF  
PRICES ON 4/5 QUART, 86.3° U.S. PROOF

## EXHIBIT No. 421

[Submitted by Browne-Vintners Co., Inc.]

WHITE HORSE DISTILLERS LIMITED AND BROWNE (VINTNERS) CO., INC.

## AGREEMENT

This agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between BROWNE VINTNERS CO., INC., a corporation with offices and a place of business at 630 Fifth Avenue, New York, N. Y., hereinafter called "owner", and \_\_\_\_\_ of \_\_\_\_\_, hereinafter called "retailer."

## WITNESSETH:

WHEREAS, the Owner is engaged in the sale and distribution of alcoholic beverages of standard quality which are advertised, distributed and sold under and bear trade-marks, brands, or names of the Owner or of Corporations or firms whom Owner represents under franchise, which beverages are hereinafter referred to as "Products," and,

WHEREAS, said Products are in fair and open competition with commodities of the same general class produced by others, and

WHEREAS, the Owner and the Retailer desire to avail themselves and the public of the benefits of the Fair Trade Act of ----- and to avoid having such trade-marked and branded Products made the subject of injurious and uneconomic practices and to avoid the depreciation of or damage to said trade-marks, brands or names through such practices,

NOW THEREFORE, in consideration of the premises and the mutual agreements contained herein and the benefits contemplated hereby, the parties agree as follows:

First: Retailer will not sell, advertise, or offer for sale with the State of ----- any of said Products which the Retailer has purchased or received in any manner whatsoever, or now has on hand, or which Retailer may hereafter purchase or receive, below the minimum prices stipulated from time to time, by Owner for sale to consumers. This contract shall be applicable to said Products purchased or received in any manner by the Retailer whether or not such Products have been bought or received from sources other than Owner.

Second: The minimum sales prices of said Products by Retailer to consumers will be in accordance with written schedules thereof, furnished from time to time to Retailer by Owner, which schedules are to be considered a part of this contract. The schedule last delivered to Retailer shall govern the resale prices to consumers. Owner reserves the right to change the schedule of prices from time to time upon ten (10) days written notice to Retailer.

Third: The Retailer will not, directly or indirectly, give any article of value or make any refund, discount or concession, directly or indirectly, which would result in a price to the consumer below the price specified in the price schedules referred to in paragraph second above, and will not sell or offer for sale any of said Products in combination with any other article at a single or joint price, and the giving of any article of value, or the making of any concession, or the sale or offering for sale of any such Product in combination with any other article at a single or joint price shall constitute a violation of this agreement.

Fourth: The Products may be resold by the Retailer without reference to this agreement in the following cases, as hereinafter provided:

(a) In closing out the Retailer's stock for the purpose of discontinuing delivery of such Products.

(b) When the Products are damaged or deteriorated in quality and notice is given to the public thereof.

(c) By any officer acting under the order of the court.  
In either of the events specified in paragraphs (a) and (b) of this paragraph the Retailer shall, before offering such Products for sale at a price less than the minimum resale prices stipulated in this agreement, first offer in writing to sell such Products to Owner in accordance with the terms of the Fair Trade Act of the State of -----, or in the event no terms are provided by law, then at the price at which said Products were sold to the Retailer, which offer may be accepted at any time within forty-eight hours of its receipt.

Fifth: The parties hereto recognize and agree that it is impracticable or extremely difficult to determine the actual damage which the Owner will suffer as a result of any breach of the terms of this agreement, and they, therefore, hereby expressly agree that, for each such breach the Retailer shall pay to the Owner the sum of Fifty (\$50) Dollars, as liquidated damages and not as a penalty. It is further agreed that in the event that any action shall be brought to enforce this agreement in any respect whatever, or to recover for any breach of this agreement, Retailer shall pay all costs of said action, including a reasonable attorney's fee.

Sixth: It is further agreed that in addition to all other rights and remedies now existing or hereafter provided by law, Owner shall be entitled to injunctive relief against any and all threatened or actual breaches of this agreement.

Seventh: In the event that any provision of this agreement shall be held to be invalid the remaining provisions thereof shall not be affected thereby and shall continue in full force and effect.

Eighth: This agreement shall become effective -----, 19-----, and shall continue in operation for a period of Five (5) years from said date unless sooner terminated by Owner on thirty (30) days written notice to Retailer.



Such a notice shall be forwarded by registered mail to the Retailer's address above set forth (or in the event such address be changed and written notice be given thereof to Owner then, at such changed address) and such notice shall be deemed given and received when it is deposited in United States mail.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the day and year first above mentioned.

OWNER BROWNE VINTNERS CO., INC.

By .....

RETAILER .....

By .....

*Browne Vintners' products, consumers and retailers price list corrected July 1, 1938 prices*

	Proof	Size	Price to consumer per bottle
Wilson "That's All" whisky:			
Round bottle.....	90	Quart.....	\$2.33
Flask.....	90	Pint.....	1.20
White Horse Scotch Whisky (Blend of 100% Scotch Whiskies, all 8 years old):			
Concave Bottle, 8 years old.....	86.8	Fifth.....	3.39
Flask, 8 years old.....		1/2-Fifth.....	1.84
Flask (16-ounce), 8-years old.....		Pint.....	2.19
E. Remy Martin Cognac:			
Three Star, 12 years old.....	84	Fifth.....	3.69
Three Star 12 years old.....		1/2-Fifth.....	1.95
V. S. O. P., 20 years old.....	80	Fifth.....	4.23
Cointreau Liqueur:			
Cointreau.....	80	Fifth.....	4.39
Cointreau.....		3/4-Pint.....	2.29
Cointreau Cordials:			
Majestic.....	80	3/4-Quart.....	3.69
Cursky Kummel.....	90	3/4-Quart.....	3.59
Anisetteor Curacao Gala.....	70	3/4-Quart.....	3.09
Creme De Menthe Green or White.....	60	3/4-Quart.....	2.99
Creme De Cocoa or Banane.....	60	3/4-Quart.....	3.09
Creme De Cassis.....	36	3/4-Quart.....	2.49
Aprioot, Cherry, Blackberry, Peach.....	70	3/4-Quart.....	3.19
Liqueur Du Couvent.....	86	3/4-Quart.....	3.19
Piper Heidsieck Champagne:			
Brut 1928.....	24	Bottle.....	4.85
Brut 1928.....		1/2 Bottle.....	2.55
Extra Dry or Sec Non-Vintage.....	24	Bottle.....	4.45
Extra Dry or Sec Non-Vintage.....		1/2-Bottle.....	2.35
Heidsieck Champagne:			
Brut 1928.....	24	Bottle.....	3.45
Brut 1928.....		1/2-Bottle.....	1.90
Burnett's White Satin & Sloe Gins:			
London Dry or Deluxe.....	90	Quart.....	1.87
London Dry, Deluxe or Sloe (proof).....		Fifth.....	1.55
London Dry, Deluxe or Sloe (Sloe 60).....		Pint.....	1.06
Mitchell & Co. Irish Whisky (Blend of 100% Irish Whiskies):			
Shamrock, 14 years old.....	85.8	Fifth.....	3.47
Shamrock, 14 years old.....		1/2-Fifth.....	1.85
Fratelli Branca Vermouth: Sweet or Dry 30 ounces.....	34	Bottle.....	.90
Cartavio Five Star Rum (distilled from sugar cane): Cartavio, Aged 4 years in wood.....	90	Fifth.....	2.81

This price list subject to change on due notice. State taxes included \* \* \* Consumers discount on case lots, 10%. Wilson "That's All" whiskey is a blend, 72 1/4% grain neutral spirits—Burnett's distilled white stain gin is 100% grain neutral spirits.

#### EXHIBIT No. 422

[Submitted by Browne-Vintners Co., Inc.]

[BROWNE VINTNERS—WHITE HORSE DISTILLERS, LTD., Import Agreement]<sup>1</sup>

THIS AGREEMENT is made in London, England, the \_\_\_\_\_ day of \_\_\_\_\_ One thousand nine hundred and thirty-nine between WHITE HORSE DISTILLERS LIMITED, whose registered office is at 120 St. Vincent Street, Glasgow, Scotland (hereinafter referred to as "the Company") of the one part and BROWNE (VINTNERS) Co., Inc., whose registered office is situate at International Building, Rocke-

<sup>1</sup> Counsel for Schenley Distillers Corporation, after reading, returned this agreement to the committee with the statement that it is substantially typical of the Schenley import agreement.

seller Center, New York, N. Y., U. S. A. (hereinafter referred to as "the Sole Distributor" of the other part WHEREBY IT IS AGREED as follows:

1. The Company will not during the currency of this Agreement except as hereinafter mentioned sell any brand of Scotch Whisky specified in the Schedule hereto annexed or any other brand of Scotch Whisky which the Company may hereafter and during the term of this Agreement produce for sale under its own name to anyone within the Forty-eight States of the United States of America and the District of Columbia and the territory of Alaska (hereinafter called "the said territory") other than the Sole Distributor.

2. The Company agrees to sell to and the Sole Distributor agrees to purchase from the Company the Company's brands of Scotch Whisky specified in the said Schedule in cases at the prices set out in the third column of the said Schedule (or at such altered or modified prices as may be fixed by the Company under and by virtue of the proviso of this clause). Each cask shall contain as nearly as practicable the quantities of American gallons set out in the second column of the said Schedule.

All goods shall be delivered free on board any port in the United Kingdom PROVIDED NEVERTHELESS that the Company reserves the right at any time and from time to time to increase or modify the said price

3. All Scotch Whiskies purchased from the Company by the Sole Distributor under and by virtue of the terms of this Agreement shall be purchased for the purpose and only for the purpose of enabling the Sole Distributor on its own behalf and not on behalf of the Company to resell such Scotch Whiskies in the same bottles or containers as those in which the same shall have been received by the Sole Distributor from the Company, such bottles or containers and their said contents then to be in the same condition as when received by the Sole Distributor from the Company and the Sole Distributor is not and shall have no right whatsoever to act as Agent for or otherwise to act for or represent the Company or to pledge the credit of the Company or contract any liabilities whatsoever on the Company's behalf.

4. The allowances set out in the fourth column of the said Schedule shall be made by the Company to the Sole Distributor in the corresponding prices set out in the third column of the said Schedule.

5. Payment for all goods supplied by the Company under this Agreement shall be made as follows: At the date of each shipment the Company will cable to the Sole Distributor the net invoice value which shall be based on the prices set out in the third column of the said Schedule less two and a half per centum (cash discount) and less also the allowances detailed in the fourth column of the said Schedule. The Sole Distributor shall within Fourteen days from the date of shipment establish at a London Bank a credit in the Company's name for the full amount due. If the Company shall waive all or any of the provisions of this Clause in the case of any shipment it shall not operate as a waiver of all or any of the provisions of this clause as to any other shipment.

6. The title to and the property in all goods so shipped to the Sole Distributor as before mentioned shall pass to the Sole Distributor on delivery any port in the United Kingdom to a Steamship Company or other common carrier.

7. The Sole Distributor shall not knowingly sell any Whisky supplied to it under this Agreement to any person or persons firm or company for shipment resale or consumption outside the said territory or for resale within the said territory otherwise than in or from the said bottles and containers.

8. The Company shall have the option to terminate this Agreement if within the said territory the Sole Distributor at any time whilst this Agreement remains in force shall either directly or indirectly sell or be concerned or interested whether directly or indirectly in the Sale of any Scotch Whisky whatsoever other than that supplied to the Sole Distributor under this Agreement. The exercise of this option shall become effective upon the mailing or cabling of a notice thereof by the Company in England.

9. The Company reserves the right to sell its said brands of Scotch Whisky specified in the Schedule hereto direct to any customer within the said territory who declines to purchase the same from the Sole Distributor or who prefers to deal direct with the Company. Particulars of all such sales shall be furnished by the Company to the Sole Distributor as they are made. And in case of any such direct sale the Company will, in addition to the allowances set out in the fourth column of the said Schedule, allow to the Sole Distributor an amount equal to the increase in price (if any) charged to and paid by any such customer over the gross price which would have been paid for the same goods by the Sole Distributor. All such direct sales shall be counted as having been made by the Sole Distributor

for the purpose of arriving at the figure of One hundred thousand cases mentioned in Clause 12 hereof.

10. The Sole Distributor will at its own expense use every endeavour by the employment of efficient salesmen who shall travel throughout the said territory and by all other possible and legitimate means to push its own sales of the said brands of Scotch Whiskies within the said territory.

11. The Company reserves the right to allocate at its sole discretion the quantities of Scotch Whisky to be supplied to the Sole Distributor from time to time if in the opinion of the Company its supplies shall not be sufficient to meet the requirements of all its customers. During the last three months of the currency of this Agreement whether determined by notice or effluxion of time the Company shall only be bound to supply the Sole Distributor with such quantities of Scotch Whisky as the Company in its absolute discretion shall consider sufficient to satisfy the reasonable requirements of the Sole Distributor for such period. The Company will not accept any responsibility and shall not be liable for any loss, damages or delay caused by war, riots, civil commotions, strikes, lock-outs, labour troubles, or any other events and contingencies which are unavoidable or for any other cause whatsoever beyond its control which may prevent or impede the Company in performing and observing any of the conditions and agreements on its part herein contained. If any reduction of the sales of the Sole Distributor shall be brought about by the operation of this clause then the figure of One hundred thousand cases mentioned in Clause 12 hereof shall be correspondingly reduced.

12. The Sole Distributor will keep all usual and proper records of all sales made of the Company's Whiskies under this Agreement and the Company its Accountants and other representatives duly appointed in that behalf in writing shall at all times have access to such records. And if in any calendar year calculated not from the First day of January but from the date when this Agreement first becomes operative or any anniversary thereof the sales actually made or under the provisions of this Agreement deemed to have been made by the Sole Distributor shall fall below a total of One hundred thousand cases then the Company shall be at liberty to put an end to this Agreement by giving notice in writing to that effect to the Sole Distributor: PROVIDED ALWAYS, that such determination shall not prejudice or affect any antecedent rights of either of the parties hereto arising out of any failure to observe or perform any of the provisions conditions and agreements herein contained.

13. The Sole Distributor will promptly notify the Company in writing at its registered office of any attempt that may come to its attention to simulate counterfeits or infringe the labels, capsules, corks, wrappers, or bottles used by the Company for its Whiskies or of any advertisement or advertising matter which may infringe the rights of the Company in its trade names and trade-marks.

14. If either party shall become bankrupt or be dissolved by voluntary or involuntary proceedings or if Receivers shall be appointed for either party or for all or substantially all of the properties thereof this Agreement shall forthwith terminate without notice but without prejudice to the rights or claims hereunder of either party as against the other.

15. This Agreement shall be deemed to have come into operation on the thirtieth day of November One thousand nine hundred and thirty-seven and (subject as hereinafter mentioned) shall remain in force for a period of ten years from that date. PROVIDED NEVERTHELESS, that (without prejudice to the right of either party arising out of any failure to observe or perform any of the provisions conditions and agreements herein contained prior to such termination) this Agreement shall be subject to termination at the option of the Company (a) if the Sole Distributor fails to observe and perform any of the conditions and agreements herein contained and on its part to be observed and performed; or (b) if the Government of the United States shall enact any law or shall promulgate any code or regulation whereby the purchase or sale of distilled alcoholic liquors wholesale or retail shall be prohibited or reserved to the Federal Government or any agency or instrumentality thereof Sixty days' notice of such termination of the Agreement shall be given by the Company to the Sole Distributor. In the event of this Agreement not being renewed the Company shall during the last month of its currency be at liberty to supply any of its brands of Scotch Whisky to such persons in the said territory as the Company may appoint as successors to the Sole Distributor provided that such Whisky shall only be so supplied on the express condition that it shall not be resold in the said territory until after the expiration of this Agreement.

16. The Sole Distributor will not assign the benefit of this Agreement wholly or in part to any other party without the consent in writing of the Company and will not give any Subdistributor appointed by it any interest in this Agreement or any part thereof.

17. Any notice provided for herein shall be sufficient if given in writing and mailed or cabled and if to the Company directed to the registered office of the Company and if to the Sole Distributor directed to it at International Building, Rockefeller Center, New York, N. Y.

18. This Agreement shall in all respects be interpreted in accordance with the laws of England.

IN WITNESS whereof the parties hereto have hereunto set their respective Seals the day and year first above written.

WHITE HORSE DISTILLERS, LIMITED,  
By \_\_\_\_\_, *Director*.  
\_\_\_\_\_, *Director*.  
BROWNE (VINTNERS) CO., INC.,  
By \_\_\_\_\_  
\_\_\_\_\_

### Schedule

#### "WHITE HORSE"

1st column, cases of	2nd column, American gallons, per case	3rd column, price per case	4th column, allowance per case
12 bottles.....	2. 40	45/-	2/6
24 bottles.....	2. 40	50/-	2/6
24 bottles.....	3. 00	60/-	3/-
48 bottles.....	3. 00	70/-	3/-
192 bottles.....	2. 40	80/-	2/6

#### "ANCIENT SCOTCH"

12 bottles.....	2. 40	70/-	5/-
24 bottles.....	2. 40	75/-	5/-
192 bottles.....	2. 40	105/-	5/-

#### "LAIRD O' LOGAN"

12 bottles.....	2. 40	70/-	5/-
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#### "BLACK HORSE"

12 bottles.....	2. 40	27/6	2/6
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#### "WHITE HOUSES"

12 bottles.....	2. 40	27/6	1/6
-----------------	-------	------	-----

WHITE HORSE DISTILLERS, LIMITED,  
By \_\_\_\_\_, *Director*.  
\_\_\_\_\_, *Director*.  
BROWNE (VINTNERS) CO., INC.,  
By \_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT No. 423

[Copy of Park & Tilford Import Corp.-Wm. Sanderson & Son, Ltd., import agreement furnished by counsel for Park & Tilford Import Corp.]

WM. SANDERSON & SON, LTD.,  
38 Eastcheap, London, E. C. 3, England.

DEAR SIRs: We hereby authorize and request you to pay, as our Agents and on our behalf, all freight and Consular fees, and for Certificates of Age and Origin, in respect of all shipments of Scotch Whisky sold by you to us under and by virtue of the Agreement dated the — day of —, 1939.

Kindly render to us Statements showing the amounts expended by you on our behalf in making the above payments, and we hereby undertake to repay the same to you forthwith.

Yours faithfully,

PARK & TILFORD IMPORT CORPORATION,  
F. G. HANDREN, *President*.

WILLIAM SANDERSON & SON, LIMITED, AND PARK & TILFORD IMPORT CORPORATION

AGREEMENT RE "SPECIAL RESERVE"

THIS AGREEMENT is made in London, England, the — day of —, One thousand nine hundred and thirty-nine, between WILLIAM SANDERSON & SON, LIMITED, whose registered office is at Charlotte Lane, Leith, Scotland (hereinafter referred to as "the Company"), of the one part, and PARK & TILFORD IMPORT CORPORATION, whose registered office is situate at 485 Fifth Avenue, New York, N. Y., U. S. A. (hereinafter referred to as "the Sole Distributor"), of the other part, WHEREBY IT IS AGREED as follows:

1. The Company will not during the currency of this Agreement, except as hereinafter mentioned, sell the brand of Scotch Whisky specified in Clause 2 hereof or any other brand of Scotch Whisky which the company may hereafter and during the terms of this Agreement produce for sale under its own name to anyone within the Forty-eight States of the United States of America and the District of Columbia and the territory of Alaska (hereinafter called "the said territory") other than the Sole Distributor.

2. The Company agrees to sell to and the Sole Distributor agrees to purchase from the Company the Company's brand of "Special Reserve" Scotch Whisky in cases, at —<sup>1</sup> per case (or at such altered or modified price as may be fixed by the Company under and by virtue of the proviso to this Clause). Each case shall contain one dozen bottles and each case of one dozen bottles shall contain as nearly as practicable 2.40 American gallons.

All goods shall be delivered free on board any port in the United Kingdom: PROVIDED, NEVERTHELESS, that the Company reserves the right at any time and from time to time to increase or modify the said price.

3. All Scotch Whisky purchased from the Company by the Sole Distributor under and by virtue of the terms of this Agreement shall be purchased for the purpose, and only for the purpose, of enabling the Sole Distributor on its own behalf and not on behalf of the Company to resell such Scotch Whisky in the same bottles or containers as those in which the same shall have been received by the Sole Distributor from the Company such bottles are containers and their said contents then to be in the same condition as when received by the Sole Distributor from the Company, and the Sole Distributor is not and shall have no right whatsoever to act as Agent for or otherwise to act for or represent the Company or to pledge the credit of the Company or contract any liabilities whatsoever on the Company's behalf.

4. Payment for all goods supplied by the Company under this Agreement shall be made as follows: At the date of each shipment the Company will cable to the Sole Distributor the net invoice value which shall be based on the price set out in clause 2 hereof less Two and a half per centum (cash discount). The Sole Distributor shall within Fourteen days from the date of shipment establish at a London Bank a credit in the Company's name for the full amount due; if the Company shall waive all or any of the provisions of this Clause in the case of any shipment it shall not operate as a waiver of all or any of the provisions of this clause as to any other shipment.

<sup>1</sup>Price deleted at the request of Park & Tilford Co.

5. The title to and the property in all goods so shipped to the Sole Distributor as before mentioned shall pass to the Sole Distributor on delivery any port in the United Kingdom to a Steamship Company or other common carrier.

6. The Sole Distributor shall not knowingly sell any Whisky supplied to it under this Agreement to any person or persons, firm, or company for shipment resale or consumption outside the said territory or for resale within the said territory otherwise than in or from the said bottles and containers.

7. The Company reserves the right to sell its said brand of Scotch Whisky direct to any customer within the said territory who declines to purchase the same from the Sole Distributor or who prefers to deal direct with the Company. Particulars of all such sales shall be furnished by the Company to the Sole Distributor as they are made. And in case of any such direct sale the Company will allow to the Sole Distributor an amount equal to the increase in price (if any) charged to and paid by any such customer over the gross price which would have been paid for the same goods by the Sole Distributor.

8. The Sole Distributor will at its own expense use every endeavour by the employment of efficient salesmen who shall travel throughout said territory and by all other possible and legitimate means to push its own sales of the said brand of Scotch Whisky within the said territory.

9. The Company reserves the right to allocate at its sole discretion the quantities of Scotch Whisky to be supplied to the Sole Distributor from time to time if in the opinion of the Company its supplies shall not be sufficient to meet the requirements of all its customers. After notice to terminate this Agreement has been given as hereinafter provided the Company shall only be bound to supply the Sole Distributor with such quantities of Scotch Whisky as the Company in its absolute discretion shall consider sufficient to satisfy the reasonable requirements of the Sole Distributor for such period. The Company will not accept any responsibility and shall not be liable for any loss, damages, or delay caused by war, riots, civil commotions, strikes, lock-outs, labour troubles, or any other events and contingencies which are unavoidable or for any other cause whatsoever beyond its control which may prevent or impede the Company in performing and observing any of the conditions and agreements on its part herein contained.

10. The Sole Distributor will keep all usual and proper records of all sales made of the Company's Whisky under this Agreement; and the Company, its Accountants, and other representatives duly appointed in that behalf in writing shall at all times have access to such records.

11. The Sole Distributor will promptly notify the Company in writing at its registered office of any attempt that may come to its attention to simulate, counterfeit, or infringe the labels, capsules, corks, wrappers, or bottles used by the Company for its Whisky or of any advertisement or advertising matter which may infringe the rights of the Company in its trade names and trade-marks.

12. If either party shall become bankrupt or be dissolved by voluntary or involuntary proceedings or if Receivers shall be appointed for either party or for all or substantially all of the properties thereof, this Agreement shall forthwith terminate without notice but without prejudice to the rights or claims hereunder of either party as against the other.

13. This Agreement shall be deemed to have come into operation on the — day of ——— One thousand nine hundred and thirty — and (subject as hereinafter mentioned) shall remain in force for a period of one year from that date and thereafter until determined by either party by not less than three calendar months notice in writing expiring on any date PROVIDED, NEVERTHELESS, that (without prejudice to the rights of either party arising out of any failure to observe or perform any of the provisions, conditions, and agreements herein contained prior to such termination) this Agreement shall be subject to termination at the option of the Company (a) if the Sole Distributor fails to observe and perform any of the conditions and agreements herein contained and on its part to be observed and performed: or (b) if the Government of the United States shall enact any law or shall promulgate any code or regulation whereby the purchase or sale of distilled alcoholic liquors, wholesale or retail, shall be prohibited or reserved to the Federal Government or any agency or instrumentality thereof Sixty days' notice of such termination of the Agreement shall be given by the Company to the Sole Distributor. In the event of notice being given as above provided the Company shall, during the last month of the currency of this Agreement, be at liberty to supply the said brand of Scotch Whisky to such persons in the said territory as the Company may appoint as successors to the Sole Distributor provided that such Whisky shall only be so supplied on the express condition that it shall not be resold in the said territory until after the expiration of this Agreement.

14. The Sole Distributor will not assign the benefit of this Agreement wholly or in part to any other party without the consent in writing of the Company and will not give any Subdistributor appointed by it any interest in this Agreement or any part thereof.

15. Any notice provided for herein shall be sufficient if given in writing and mailed or cabled and if to the Company directed to the registered office of the Company and if to the Sole Distributor directed to it at 485 Fifth Avenue, New York, N. Y.

16. This Agreement shall in all respects be interpreted in accordance with the laws of England.

IN WITNESS whereof the parties hereto have hereunto set their respective Seals the day and year first above written.

WILLIAM SANDERSON & SON LIMITED,  
By \_\_\_\_\_, Director.  
\_\_\_\_\_, Director.  
PARK & TILFORD IMPORT CORPORATION,  
By \_\_\_\_\_,  
\_\_\_\_\_.  
\_\_\_\_\_.

## EXHIBIT No. 424

[Copy of Park & Tilford Import Corp.—Wm. Sanderson & Son, Ltd., import agreement furnished by counsel for Park & Tilford Import Corp.]

WM. SANDERSON & SON, Ltd.,  
38 Eastcheap, London, E. C. 3, England.

DEAR SIR: We hereby authorize and request you to pay as our Agents and on our behalf all freight, and Consular fees, and for Certificates of Age and Origin, in respect of all shipments of Scotch Whisky sold by you to us under and by virtue of the Agreement dated the \_\_\_\_\_ day of \_\_\_\_\_ 1939.

Kindly render to us Statements showing the amounts expended by you on our behalf in making the above payments and we hereby undertake to repay the same to you forthwith.

Yours faithfully,

PARK & TILFORD IMPORT CORPORATION,  
F. G. HANDREN, *President*.

WILLIAM SANDERSON & SON, LIMITED, AND PARK & TILFORD IMPORT CORPORATION

## AGREEMENT RE "VAT 69" AND "RARE OLD LIQUEUR"

THIS AGREEMENT is made in London, England, the \_\_\_\_\_ day of \_\_\_\_\_ 1939, between WILLIAM SANDERSON & SON, LIMITED, whose registered office is at Charlotte Lane, Leith, Scotland (hereinafter referred to as "the Company"), of the one part and PARK & TILFORD IMPORT CORPORATION, whose registered office is situated at 485 Fifth Avenue, New York, N. Y., U. S. A. (hereinafter referred to as "the Sole Distributor"), of the other part, WHEREBY IT IS AGREED as follows:

1. The Company will not during the currency of this Agreement, except as hereinafter mentioned, sell either of its two brands of Scotch Whisky specified in the Schedule hereto annexed to anyone within the 48 States of the United States of America and the District of Columbia and the territory of Alaska (hereinafter called "the said territory") other than the Sole Distributor.

2. The Company agrees to sell to and the Sole Distributor agrees to purchase from the Company the Company's brands of Scotch Whisky specified in the said Schedule in cases at the prices set out in the third column of the said Schedule (or at such altered or modified prices as may be fixed by the Company under and by virtue of the proviso to this Clause). Each case shall contain as nearly as practicable the quantities of American gallons set out in the second column of the said Schedule.

All goods shall be delivered free on board any port in the United Kingdom: *Provided, nevertheless*, that the Company reserves the right at any time and from time to time to increase or modify the said prices.

3. All Scotch Whiskies purchased from the Company by the Sole Distributor under and by virtue of the terms of this Agreement shall be purchased for the purpose and only for the purpose of enabling the Sole Distributor on its own behalf

and not on behalf of the Company to resell such Scotch Whiskies in the same bottles or containers as those in which the same shall have been received by the Sole Distributor from the Company, such bottles or containers and their said contents then to be in the same condition as when received by the Sole Distributor from the Company, and the Sole Distributor is not and shall have no right whatsoever to act as Agent for or otherwise to act for or represent the Company or to pledge the credit of the Company or contract any liabilities whatsoever on the Company's behalf.

4. The allowances set out in the fourth column of the said Schedule shall be made by the Company to the Sole Distributor on the corresponding prices set out in the third column of the said Schedule.

5. Payment for all goods supplied by the Company under this Agreement shall be made as follows: At the date of each shipment the Company will cable to the Sole Distributor the net invoice value which shall be based on the prices set out in the third column of the said Schedule less  $2\frac{1}{2}\%$  (cash discount) and less also the allowances detailed in the fourth column of the said Schedule. The Sole Distributor shall within 14 days from the date of shipment establish at a London Bank a credit in the Company's name for the full amount due. If the Company shall waive all or any of the provisions of this Clause in the case of any shipment it shall not operate as a waiver of all or any of the provisions of this clause as to any other shipment.

6. The title to and the property in all goods so shipped to the Sole Distributor as before mentioned shall pass to the Sole Distributor on delivery any port in the United Kingdom to a Steamship Company or other common carrier.

7. The Sole Distributor shall not knowingly sell any Whisky supplied to it under this Agreement to any person or persons, firm, or company for shipment, re-sale, or consumption outside the said territory or for re-sale within the said territory otherwise than in or from the said bottles and containers.

8. The Company shall have the option to terminate this Agreement if within the said Territory the Sole Distributor at any time whilst this Agreement remains in force shall either directly or indirectly sell or be concerned or interested whether directly or indirectly in the sale of any Scotch Whisky whatsoever other than that supplied to the Sole Distributor under this Agreement or under an Agreement of even date whereby the Sole Distributor is granted the Sole Distributorship of the Company's brand of Special Reserve Scotch Whisky. The exercise of this option shall become effective upon the mailing or cabling of a notice thereof by the Company in England.

9. The Company reserves the right to sell its said brands of Scotch Whisky specified in the Schedule hereto direct to any customer within the said territory who declines to purchase the same from the Sole Distributor or who prefers to deal direct with the Company. Particulars of all such sales shall be furnished by the Company to the Sole Distributor as they are made. And in case of any such direct sale the Company will in addition to the allowances set out in the fourth column of the said Schedule allow to the Sole Distributor an amount equal to the increase in price (if any) charged to and paid by any such customer over the gross price which would have been paid for the same goods by the Sole Distributor. All such direct sales shall be counted as having been made by the Sole Distributor for the purpose of arriving at the figure of 100,000 cases mentioned in Clause 12 hereof.

10. The Sole Distributor will at its own expense use every endeavour by the employment of efficient salesmen who shall travel throughout the said territory and by all other possible and legitimate means to push its own sales of the said brands of Scotch Whiskies within the said territory.

11. The Company reserves the right to allocate at its sole discretion the quantities of Scotch Whisky to be supplied to the Sole Distributor from time to time if in the opinion of the Company its supplies shall not be sufficient to meet the requirements of all its customers. During the last three months of the currency of this Agreement whether determined by notice or effluxion of time the Company shall only be bound to supply the Sole Distributor with such quantities of Scotch Whisky as the Company in its absolute discretion shall consider sufficient to satisfy the reasonable requirements of the Sole Distributor for such period. The Company will not accept any responsibility and shall not be liable for any loss, damages, or delay caused by war, riots, civil commotions, strikes, lock-outs, labour troubles, or any other events and contingencies which are unavoidable or for any other cause whatsoever beyond its control which may prevent or impede the Company in performing and observing any of the conditions and agreements on its part herein contained. If any reduction of the sales of the Sole Distributor shall be



brought about by the operation of this clause, then the figure of 100,000 cases mentioned in Clause 12 hereof shall be correspondingly reduced.

12. The Sole Distributor will keep all usual and proper records of all sales made of the Company's Whiskies under this Agreement and the Company, its Accountants, and other representatives duly appointed in that behalf in writing shall at all times have access to such records. And if in any calendar year calculated not from the 1st day of January but from the date when this Agreement first becomes operative or any anniversary thereof the sales actually made or under the provisions of this Agreement deemed to have been made by the Sole Distributor shall fall below a total of 100,000 cases then the Company shall be at liberty to put an end to this Agreement by giving notice in writing to that effect to the Sole Distributor: *Provided always*, that such determination shall not prejudice or affect any antecedent rights of either of the parties hereto arising out of any failure to observe or perform any of the provisions, conditions, and agreements herein contained.

13. The Company shall not be under any obligation to supply the Sole Distributor with more than 5,000 cases of Rare Old Liqueur Scotch Whisky in any period of 12 Calendar months calculated from the date when this Agreement first becomes operative or any anniversary thereof.

14. The Sole Distributor will promptly notify the Company in writing at its registered office of any attempt that may come to its attention to simulate, counterfeit, or infringe the labels, capsules, corks, wrappers, or bottles used by the Company for its Whiskies or of any advertisement or advertising matter which may infringe the rights of the Company in its trade names and trademarks.

15. If either party shall become bankrupt or be dissolved by voluntary or involuntary proceedings or if Receivers shall be appointed for either party or for all or substantially all of the properties thereof, this Agreement shall forthwith terminate without notice but without prejudice to the rights or claims hereunder of either party as against the other.

16. This Agreement shall be deemed to have come into operation on the 17th day of January 1938 and (subject as hereinafter mentioned) shall remain in force for a period of 10 years from that date: *Provided nevertheless*, that (without prejudice to the rights of either party arising out of any failure to observe or perform any of the provisions, conditions, and agreements herein contained prior to such termination) this Agreement shall be subject to termination at the option of the Company (a) if the Sole Distributor fails to observe and perform any of the conditions and agreements herein contained and on its part to be observed and performed; or (b) if the Government of the United States shall enact any law or shall promulgate any code or regulation whereby the purchase or sale of distilled alcoholic liquors wholesale or retail shall be prohibited or reserved to the Federal Government or any agency or instrumentality thereof 60 days' notice of such termination of the Agreement shall be given by the Company to the Sole Distributor. In the event of this Agreement not being renewed the Company shall during the last month of its currency be at liberty to supply any of its brands of Scotch Whisky to such persons in the said territory as the Company may appoint as successors to the Sole Distributor provided that such Whisky shall only be so supplied on the express condition that it shall not be resold in the said territory until after the expiration of this Agreement.

17. The Sole Distributor will not assign the benefit of this Agreement wholly or in part to any other party without the consent in writing of the Company and will not give any Sub-distributor appointed by it any interest in this Agreement or any part thereof.

18. Any notice provided for herein shall be sufficient if given in writing and mailed or cabled and if to the Company directed to the registered office of the Company and if to the Sole Distributor directed to it at 485 Fifth Avenue, New York, N. Y.

19. This Agreement shall in all respects be interpreted in accordance with the law of England.

IN WITNESS whereof the parties hereto have hereunto set their respective Seals the day and year first above written.

WILLIAM SANDERSON & SON, LIMITED,  
By \_\_\_\_\_, *Director*.  
\_\_\_\_\_, *Director*.

PARK & TILFORD IMPORT CORPORATION,  
By \_\_\_\_\_.

## EXHIBIT No. 425

[Copy of Canada Dry Ginger Ale, Inc. import agreement submitted by Canada Dry Ginger Ale, Inc.]

CANADA DRY GINGER ALE, INCORPORATED,  
100 East 42nd Street, New York, N. Y.

GENTLEMEN: In the recent decision of the Court of Appeals of New York State, Section 2 of the Fair Trade Act of the State of New York was sustained. The decision of the Court reverses its previous holding on this Section. By reason of this latter decision, it is no longer necessary that the sales of the alcoholic beverages enumerated in Paragraph Third of our Retail Sales Agreement with you be limited by us and our wholesalers to retailers who have entered into contracts with us. The decision now enables us to restrain retailers who have not signed an agreement with us from selling below prices established by us in contracts entered into pursuant to the Fair Trade Act. We are therefore deleting from our Retail Sales Agreements with our retailers the paragraphs therein numbered and designated as "First" and "Second."

In order to afford the retailers the same protection granted to them under the existing agreements with us from price cutting by non-contract signers, we are deleting from such agreements the Thirteenth paragraph thereof in its present form and substituting in lieu thereof the following:

"THIRTEENTH: The Owner, recognizing the damages to the Retailer by the sale of the Owner's products by dealers therein below the minimum price stipulated from time to time by the Owner pursuant to this agreement, agrees that in the event of a sale by any retailer of the Owner's products below such minimum price to take immediate action in the Courts of this State for injunctive relief and to pursue the other remedies available to it, if in the opinion of the Owner and its counsel such action is warranted and advisable under the then existing circumstances."

It is essential that our present agreement be modified as above and, pursuant to Paragraph Fourteenth of such agreement with you, we hereby elect to terminate such agreement as of sixty (60) days from the date of receipt of this letter by you. It is provided, however, that if, prior to such date, we receive a copy of this letter which we herewith enclose, with your duly signed consent to the above-mentioned modifications of our present agreement, our notice of cancellation shall be deemed to have been withdrawn and our agreement with you, as modified, shall continue in full force and effect.

Will you kindly sign and return the consent to the foregoing changes on the copy of this letter which is enclosed herein. We shall appreciate your prompt cooperation in this matter.

Very truly yours,

CANADA DRY GINGER ALE, INCORPORATED,

By \_\_\_\_\_.

It is hereby agreed that our Retail Sales Agreement with you be and the same is hereby modified as above provided.

\_\_\_\_\_, Retailer.

License No. \_\_\_\_\_

This Agreement, made this \_\_\_\_\_ day of December, 193\_ between CANADA DRY GINGER ALE, INCORPORATED, a Delaware corporation, with an office and place of business at 100 East 42nd Street, Borough of Manhattan, New York, N. Y., hereinafter called "Owner", and \_\_\_\_\_ of \_\_\_\_\_ New York, hereinafter called "Retailer"

WITNESSETH:

WHEREAS the Owner is engaged in the business of distributing alcoholic beverages in the State of New York produced by various corporations represented by Owner, which beverages are advertised, distributed and sold under and bear trade-marks, brands, and names of said corporations and affiliated corporations; and

WHEREAS said beverages are in fair and open competition with commodities of the same general class produced by others; and

WHEREAS the Owner and the Retailer desire to avail themselves and the public of the benefits of the Fair Trade Practice Act of New York and to avoid having such trade marked and branded articles made the subject of injurious and un-economic practices and to avoid the depreciation of or damage to said trade marks, brands or names through such practice,

Now, THEREFORE, the parties hereto agree as follows:

*First:* The Owner agrees that in selling such alcoholic beverages to distributors, jobbers, or selling agents that it will require, on delivery, in writing, that such distributors, jobbers, or selling agents will not in turn sell said commodities to any retailer who fails to maintain stipulated resale price or prices unless and until such retailer or retailers shall have executed an agreement similar hereto.

*Second:* The Owner agrees that he will not sell or deliver any such products for resale to any person, firm, or corporation until and unless said person, firm, or corporation shall have executed and delivered to the Owner an agreement, containing all of the terms, covenants, and conditions set forth herein.

*Third:* The Retailer agrees that he will not sell, advertise, or offer for sale within the State of New York any beverages for which the Owner is distributor and which bear trade-marks, brands, or names of CANADA DRY GINGER ALE, INCORPORATED, or corporations represented by Owner, which Retailer has purchased or now has on hand, or which Retailer may hereafter purchase, below the minimum price stipulated from time to time by the Owner for sale to the consumer. The Retailer agrees that he will not directly, or indirectly, give any article of value or make any concession, directly or indirectly, which will result in a price to the consumer below the price stipulated in the Consumer Price Schedule issued by the Owner, and that he will not sell or offer for sale any of said products in combination with any other liquor or product at a single or joint price, and that the giving of any article of value or the making of any concession, or the sale or offering for sale of any such product in combination with any other article or product at a single or joint price shall constitute a violation of this agreement.

*Fourth:* In the event Retailer receives permission from the proper authorities to sell or transfer his store or any of his merchandise for resale, Retailer agrees that as a condition of the sale, he will require that his successor or assignee shall be bound by this contract. The Retailer agrees that this contract shall be applicable to any merchandise purchased or received in any manner whatsoever by the Retailer in the State of New York, which shall bear such trade marks, brands, or names of CANADA DRY GINGER ALE, INCORPORATED, or the corporations which it represents, and that such products which may have been bought from sources other than the Owner or its duly authorized wholesalers, jobbers or importers, as aforesaid, will not be resold at prices less than the minimum resale prices in effect under this agreement.

*Fifth:* The minimum sales price of such beverages by Retailer to consumers will be in accordance with written schedules thereof, furnished from time to time to Retailer by Owner or distributor of Owner, which schedules are to be considered a part of this contract. The schedule last delivered to Retailer shall govern the resale price to consumer.

*Sixth:* The Owner may from time to time by fifteen (15) days written notice to the Retailer add to those products specified in the Owner's Price Schedule, and as to those additional products all the provisions of this contract shall apply.

*Seventh:* The Owner may upon at least fifteen (15) days notice to the Retailer, which notice shall be in writing mailed by the Distributor to the Retailer in a postpaid envelope addressed to the Retailer, revise such minimum resale prices.

*Eighth:* If in accordance with Section C of Article II of the Fair Trade Act Retailer may sell his products without reference to this contract, Retailer shall, before offering such commodity for sale at a price less than the minimum resale prices stipulated in this agreement, first offer in writing upon five (5) days notice to sell such commodity, or commodities, to the Owner at the said proposed resale price or the price at which said product was sold to Retailer, whichever shall be lower.

*Ninth:* The parties hereto recognize and agree that it is impossible to determine the actual damage which will result to the Retailer as a result of the sale and/or delivery of merchandise for resale to any person, firm or corporation who shall not have previously executed and delivered an agreement as set forth in paragraph "Second" in contravention of the terms of this agreement and they therefore, agree that in addition to other legal rights and remedies, Retailer shall be entitled to injunctive relief against any and all actual or threatened breaches of this agreement.

*Tenth:* The parties hereto recognize that it is impossible to determine the actual damage which will result to the Owner and other Retailers from sales made by the Retailer in contravention of the terms of this Agreement and the parties therefore agree that immediately upon any breach of this agreement on the part of the Retailer that the Owner shall have the right to forthwith demand delivery by the Retailer to the Owner of all said products held in the Retailer's stock, for which

Owner shall pay to the Retailer at the current net prices quoted to the Retail trade for the same quantities of said products. Nothing herein contained, however, shall be considered to be a waiver of the Owner's right to recover damages for such breach.

*Eleventh:* The Retailer recognizing further that his breach of this agreement damages every other Retailer who has signed a similar contract agrees that the Retailer shall pay in addition to the Owner, as liquidated damages a reasonable attorney's fee if and when and as often as the Owner shall obtain a final judgment in any court for a breach of this agreement by an action at law or in equity.

*Twelfth:* It is further agreed that the parties recognizing the damage that will necessarily follow a breach of this agreement to all other retailers who have signed similar contracts, further agree that in addition to all other rights and remedies the Owner shall be entitled to injunctive relief against any and all or actual or threatened breaches of this agreement and in addition thereto shall be entitled to specific performance of the repurchase agreements contained herein.

*Thirteenth:* The Owner recognizing the damages to the Retailer by the actual or threatened breach of a similar agreement by a retailer handling the Owner's products for resale to the consumer agrees that in the event of a breach of a similar agreement by any other retailer, to take immediate action in the Courts of this State for injunctive relief as well as damages for the breach thereof, and to pursue the other remedies available to them under this agreement and to apply to the courts of this State for specific performance of the terms of such agreement, if in the opinion of Owner and its counsel, such action is warranted under the then existing conditions.

*Fourteenth:* This agreement shall become effective December 15th, 1936, and shall continue in operation for a period of five (5) years from date unless previously cancelled as hereinbelow provided.

The Owner shall have the right to cancel this agreement on sixty (60) days prior written notice delivered to the Retailer.

*Fifteenth:* This contract is made in pursuance of and by authority of the Fair Trade Act of the State of New York, must be executed in the State of New York by both parties hereto, and shall apply only to the sales made within the State of New York of beverages located therein.

CANADA DRY GINGER ALE, INCORPORATED,  
By \_\_\_\_\_ Owner.  
\_\_\_\_\_ Retailer.

WITNESS:  
\_\_\_\_\_  
\_\_\_\_\_

### EXHIBIT No. 426

[Submitted by Canada Dry Ginger Ale, Inc.]

### PRICE SCHEDULE, METROPOLITAN AREA, CANADA DRY GINGER ALE, INCORPORATED PRODUCTS, EFFECTIVE NOV. 1. 1938

[NOTE.—This price list embodies all the corrections that have taken place in our schedules since our last price list dated July 1, 1938. May we ask your full cooperation in maintaining these prices?]

Brand	Pkge.	Sug- gested Quantity Price	Sug- gested Dealer's Price	Con- sumer Price Per Bottle
Johnnie Walker Scotch:				
Red Label.....	12/5.....	\$30.55	\$32.20	\$3.39
Do.....	24/12-4/5.....	32.55	34.20	1.84
Black Label.....	12/5.....	40.55	42.20	4.39
Do.....	24/12-4/5.....	42.55	44.20	2.44
John Power's Three Swallow Irish Whisky.....	12/5.....	30.55	32.20	3.24
Do.....	24/12-4/5.....	32.05	33.70	1.89
Cinzano Vermouth:				
Italian.....	12/30.....	10.00	10.25	1.20
Do.....	24/15.....	10.50	11.15	.65
Italian White.....	12/30.....	12.65	12.65	1.47
French.....	12/30.....	8.75	9.00	1.05

PRICE SCHEDULE, METROPOLITAN AREA, CANADA DRY GINGER ALE, INCORPORATED PRODUCTS, EFFECTIVE NOV. 1, 1938—Continued

Brand	Pkge.	Sug- gested Dealer's Price	Con- sumer Price Per Bottle
Ron Daiquiri Coctelera Puerto Rico Rum:			
White & Gold Label.....	12/5.....	\$16.90	\$1.97
Do.....	24/12-4/5.....	17.45	1.02
Holloway's London Dry Gin.....	12/32.....	14.30	1.67
Do.....	12/5.....	11.95	1.40
Do.....	12/16.....	15.25	.89
Holloway's Sloe Gin.....	12/5.....	13.15	1.53
Do.....	24/12-4/5.....	14.00	.82
Holloway's Orange Bitters.....	12/5.....	12.95	1.51
Do.....	24/6-2/5.....	9.50	.54
Holloway's prepared cocktails:			
Martini.....	12/5.....	15.20	1.77
Do.....	24/12-4/5.....	16.10	.94
Manhattan.....	12/5.....	16.40	1.91
Do.....	24/12-4/5.....	16.80	.98
Old Fashioned.....	12/5.....	15.65	1.82
Do.....	24/12-4/5.....	16.55	.97
Holloway's Rock & Rye.....	12/32.....	17.70	2.06
Do.....	24/16.....	18.70	1.09
Nuyens Cordials			
Anisette.....	12/5.....	17.60	2.10
Do.....	24/12-4/5T.....	17.95	1.10
Creme De Cocoa.....	12/5.....	17.95	2.10
Do.....	24/12-4/5.....	18.80	1.10
Creme de Menthe.....	12/5.....	17.70	2.10
(White & Green).....	24/12-4/5.....	18.60	1.10
Creme de Cassis.....	12/5.....	18.10	2.10
Creme de Violette.....	12/5.....	16.65	2.10
Curacao Bottles.....	12/5.....	18.05	2.10
Goldwasser.....	12/5.....	17.75	2.10
Apricot.....	12/5.....	18.35	2.15
Do.....	24/12-4/5.....	19.25	1.15
Blackberry.....	12/5.....	18.30	2.15
Do.....	24/12-4/5.....	19.25	1.15
Cherry.....	12/5.....	18.30	2.15
Do.....	24/12-4/5.....	19.25	1.15
Peach.....	12/5.....	18.35	2.15
Do.....	24/12-4/5.....	19.30	1.15
Triple Sec.....	12/5.....	19.00	2.22
Do.....	24/12-4/5.....	20.55	1.20
Creme de Rose.....	12/5.....	16.45	2.17
Curacao Jugs.....	12/5.....	20.30	2.37
Do.....	24/12-4/5.....	22.20	1.30
Kummel.....	12/5.....	19.65	2.29
Do.....	24/12-4/5.....	20.55	1.20
Marasquin.....	12/5.....	18.65	2.18
Prunelle Jugs.....	12/5.....	24.35	2.84

Consumer's case price: 12 bottles for the price of 11 bottles.

### EXHIBIT No. 427

[Prepared by Federal Alcohol Administration]

### ADVERTISING OF DISTILLED SPIRITS

The figures below set forth the available information by dollar volume of newspaper and national magazine advertising by National Distillers Products Corporation, Schenley Distillers Corporation, Seagram Distillers Corporation, and Hiram Walker & Sons, Inc., and subsidiaries during the years 1934, 1935, 1936, 1937, and 1938:

	News- papers <sup>1</sup>	National magazines <sup>1</sup>	
1934:			
National Distillers.....	\$850,000	\$218,533	
Schenley.....	880,000	345,338	
Seagram.....	800,000	96,215	
Hiram Walker.....	800,000	248,375	
	3,330,000	908,461	\$4,238,461

	News- papers <sup>1</sup>	National magazines <sup>1</sup>	
1935:			
National Distillers.....	\$1,800,000	\$903,762	
Schenley.....	2,285,000	341,064	
Seagram.....	1,310,000	407,275	
Hiram Walker.....	540,000	120,943	
	5,935,000	1,773,044	\$7,708,044
1936:			
National Distillers.....	2,400,000	677,719	
Schenley.....	3,200,000	517,960	
Seagram.....	1,400,000	344,160	
Hiram Walker.....	555,000	419,491	
	7,555,000	1,959,330	9,514,330
1937:			
National Distillers.....	2,250,000	601,816	
Schenley.....	3,100,000	824,400	
Seagram.....	1,705,000	801,268	
Hiram Walker.....	585,000	589,425	
	7,640,000	2,816,909	10,456,909
1938:			
National Distillers.....	<sup>2</sup> 1,636,560	1,043,634	
Schenley.....	<sup>2</sup> 2,589,204	764,613	
Seagram.....	<sup>2</sup> 2,000,058	1,105,557	
Hiram Walker.....	<sup>2</sup> 882,564	899,276	
	7,108,386	3,813,080	10,921,466
Total, National Magazines and Newspapers.....			\$42,839,200

<sup>1</sup> Submitted by Advertising Age. It is understood that the magazine figures were compiled by Publishers' Information Bureau and newspaper figures by Media Records, Inc.

<sup>2</sup> Taken from questionnaires submitted by industry members.

These figures represent the most accurate information obtainable on this subject. They do not include, however, the total advertising expenditures by the companies involved, since outdoor, point of sale, and specialty advertisements are not included.

Outdoor Advertising, Inc., advised that \$4,000,000 was spent last year for national outdoor advertising and approximately \$1,000,000 for local outdoor advertising.

The Federal Alcohol Administration regularly subscribes to approximately 60 daily newspapers and 30 magazines, in which appear an average of approximately 1,350 advertisements of alcoholic beverages per week.

Attached hereto is a representative cross section of current national magazine and newspaper advertisements for distilled spirits.

"EXHIBIT No. 428", introduced on p. 2628, is on file with the Committee

#### EXHIBIT No. 429

##### *Distilled Spirits Institute, Inc., statement of income*

	December 14, 1933 to December 31, 1934, inclusive	1935	1936	1937	1938	Total
Dues.....	\$206,126.19	\$142,216.89	\$221,028.47	\$348,755.85	\$323,364.27	\$1,241,491.67
Initiation fees.....		300.00	3,715.00	140.00		4,155.00
Sales of copies of code, etc.....	27.27					27.27
Miscellaneous income.....		39.26				39.26
Sales of summaries of State laws.....			394.40			394.40
Sale of office equipment.....				435.00	76.00	511.00
Total.....	206,153.46	142,556.15	225,137.87	349,330.85	323,440.27	1,246,618.60

*Distilled Spirits Institute, Inc., statement of disbursements*

	Dec. 14, 1933-Dec. 31, 1934	1935 <sup>1</sup>	1936	1937	1938
Salary and expense allowance of president (W. F. Morgan).....				\$18,055.56	
Salaries of executives.....	\$51,263.37	\$50,000.00	\$50,000.00	67,011.98	\$73,269.20
Salaries of clerical and other employees.....	13,463.50	35,918.33	37,321.43	72,279.42	49,862.14
Office expenses:					
Rent.....	4,160.00	6,000.00	6,396.00	15,025.24	8,658.00
Office alterations.....				3,065.44	
Office equipment purchased.....	4,099.40	1,082.25	747.10	9,555.59	264.76
Telephone and telegraph.....	5,185.31	9,428.69	6,098.67	9,169.78	3,330.38
Postage.....	1,759.50	3,997.58	2,949.56	5,217.13	5,592.30
Printing, stationery, and supplies.....	2,431.86	3,605.47	2,192.04	6,663.56	10,332.15
Moving expenses (New York to Wash- ington).....				2,146.66	
Miscellaneous.....	1,166.44	1,338.30	2,348.60	3,652.66	2,933.39
Traveling expenses:					
Directors and committee members.....		1,807.28	3,399.81	6,237.71	3,495.50
Other traveling expenses.....	6,694.81	12,221.71	10,494.03	23,736.13	19,881.00
General expenses:					
Insurance.....	43.00		96.29	195.10	454.85
Taxes.....	43.40	186.77	859.08	3,174.14	4,654.62
Surety-bond premiums.....			250.00	326.54	
Expenses of meetings.....	343.75	888.87	683.48	1,686.93	1,243.87
Accounting and organization survey fees.....		775.00	1,750.00	1,889.05	1,650.00
Legislative reporting service.....	1,435.00	19,239.31	6,430.01	6,411.06	3,344.75
Other expenses:					
Special investigations.....	13,378.98	12,948.20	8,333.67		
Institute advertising.....		30,840.56		2,819.26	625.00
Advertising at exhibitions.....			33,751.22		
Legal fees and expenses.....	5,188.89	6,042.80	12,541.30	71,379.73	24,691.07
Legislative committee expense.....			6,835.20		
Clipping service.....			6,600.79	6,198.84	283.20
Organization expense.....		15,000.00			
Education and publicity.....			18,239.76	57,045.01	56,151.71
Memberships and dues.....	1,175.00				
Books and publications.....			1,236.46	2,158.02	1,221.80
Lease of New York office space less receipts from sublease.....					7,421.87
Expenses of miniature distillery exhibit Technical consultant's services.....					3,108.38
Gift to Mrs. Sarah Morgan.....					5,000.00
Settlement of salary claim (Max Mil- ler).....					20,000.00
Total disbursements.....	111,832.24	211,357.15	219,557.50	395,124.59	308,319.84
Less amount received from Association of Distilled Spirits Industry in reimburse- ment of proportion of expenses applicable to both organizations <sup>1</sup> .....	45,000.00	59,000.00			
Total.....	66,832.24	152,357.15	219,557.50	395,124.59	308,319.84

<sup>1</sup> The Association of Distilled Spirits Industry and the Distilled Spirits Institute occupied the same offices and functioned through the same salaried personnel. The Association reimbursed the Institute in the amounts shown for the proportion of the joint expenses applicable to both organizations.

<sup>2</sup> The amount of \$30,840.56 for Advertising includes \$25,000 paid to the distillers' executive committee on account of an appropriation of \$35,000 made by the board of directors on Oct. 29, 1935, to meet expenses in giving publicity to statistics and other data in Kentucky.

<sup>3</sup> Payments to Repeal Associates included in "Clipping service" in 1936 and 1937. In 1938 these payments are included in "Education and publicity."

## EXHIBIT No. 430

## OHIO

WHEREAS the members of the Distilled Spirits Institute, Incorporated, desire, in furtherance of the declared purposes of the Institute, to cooperate with the Board of Liquor Control and the Director of Liquor Control of the Department of Liquor Control of the State of Ohio in promoting sound and ethical trade practices in the State,

*Be it resolved*, That for the more definite and specific guidance of representatives of members of the Institute, no agent, employee, or representative of any member shall directly or indirectly engage in any of the following transactions or actions:

1. Grant, allow, pay, or rebate, directly or indirectly, any cash or merchandise to any permittee, including (a) purchase of merchandise at retail for delivery to a permittee; (b) Grant or allow or pay anything of value to permittees for the privilege of displaying advertising; (c) Grant, allow or pay tips to bartenders to induce

the sale of merchandise; and (d) Purchase drinks "for the House" to induce the sale of merchandise.

2. Visit state stores or personally contact the store employees for the purpose of promoting the sale of merchandise.

3. Solicit store or office personnel to promote the sale of particular brands otherwise than as authorized in regulations promulgated by the Director of Liquor Control.

4. Induce permittees to acquire excessive amounts of merchandise inventory.

5. Sales to permittees on any terms of credit.

6. Apply for information as to merchandise which has left bailment warehouse only at the central office in such manner as shall be prescribed by the Director of Liquor Control.

7. Entertain or offer gratuities to store or office personnel, or otherwise contact such persons except in matters arising in the regular course of business.

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## SUPPLEMENTAL DATA

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The following letter is included at this point in connection with testimony on p. 2598, *supra*.

EXHIBIT No. 432,

ARCHIBALD KELLY,  
*British Empire Building, 620 Fifth Avenue,  
New York, March 21st, 1939*

PHILIP BUCK, Esq.,  
*General Counsel, Federal Alcohol Administration,  
Washington, D. C.*

DEAR MR. BUCK: Last Friday morning when I testified before the Temporary National Economic Committee, you asked if I would supply you with a list of the principal Brands owned or controlled by the Distillers Company Limited (Edinburgh), now being imported by American Distributors.

The list is as follows:

Buchanan's "Black & White."  
Dewar's "White Label."  
"Johnny Walker."  
"White Horse."  
"Haig & Haig."  
"Vat 69."  
"King George" and "Highland Neetar."  
"Sandy Mac" and "Old Parr."  
"Usher's Green Stripe."  
"John Begg."  
"Glen Garry."  
"Peter Dawson."  
Bulloch Lade's "Gold Label" and "Old Rarity."  
Mitchell Bros. "Heather Dew."  
Harvey's "Special."  
McCallum's "Perfection."  
"King William."  
Robertson's "B. E. B." and "Yellow Label," etc.

Yours very truly,

AK:EG.

A. KELLY.

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The following price lists are included at this point in connection with testimony on p. 2580, *supra*.



## EXHIBIT No. 433

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list  
No. 43, effective July 16, 1937—supersedes all previous price lists*

Code	Brand	Age	Proof	Size	Price
STRAIGHT WHISKEY—BOURBON					
354	Old Whig.....	18 Mo. Bour.	90	Qt.	\$1.45
355	Old Whig.....	18 Mo. Bour.	90	Pt.	.75
60	Old American.....	24 Mo. Bour.	90	Qt.	1.45
61	Old American.....	24 Mo. Bour.	90	Pt.	.80
45	Ten High.....	24 Mo. Bour.	90	Qt.	1.45
46	Ten High.....	24 Mo. Bour.	90	Pt.	.80
59	Windsor.....	24 Mo. Bour.	90	Qt.	1.50
44	Windsor.....	24 Mo. Bour.	90	Pt.	.80
356	Old Quaker.....	24 Mo. Bour.	90	Qt.	1.50
357	Old Quaker.....	24 Mo. Bour.	90	Pt.	.80
358	Glenmore.....	18 Mo. Bour.	90	Qt.	1.50
359	Glenmore.....	18 Mo. Bour.	90	Pt.	.80
91	Bottoms Up.....	20 Mo. Bour.	90	Qt.	1.55
92	Bottoms Up.....	20 Mo. Bour.	90	Pt.	.80
49	Crab Orchard.....	18 Mo. Bour.	93	Qt.	1.55
50	Crab Orchard.....	18 Mo. Bour.	93	Pt.	.85
93	Cream of Kentucky.....	18 Mo. Bour.	90	Qt.	1.60
94	Cream of Kentucky.....	18 Mo. Bour.	90	Pt.	.85
67	Old Polk.....	20 Mo. Bour.	100	Qt.	1.65
68	Old Polk.....	20 Mo. Bour.	100	Pt.	.85
51	Shipping Port.....	18 Mo. Bour.	90	Qt.	1.65
52	Shipping Port.....	18 Mo. Bour.	90	Pt.	.90
13	Virginia Gentleman.....	18 Mo. Bour.	90	Qt.	1.79
14	Virginia Gentleman.....	18 Mo. Bour.	90	Pt.	.90
19	Old Lewis Hunter.....	24 Mo. Bour.	100	Qt.	1.75
20	Old Lewis Hunter.....	24 Mo. Bour.	100	Pt.	.90
23	Century Club.....	30 Mo. Bour.	90	Qt.	1.90
24	Century Club.....	30 Mo. Bour.	90	Pt.	1.00
STRAIGHT WHISKEY—RYE					
362	Fleet Street.....	24 Mo. Rye.....	90	Qt.	1.40
363	Fleet Street.....	24 Mo. Rye.....	90	Pt.	.75
360	Maryland Hunt Cup.....	18 Mo. Rye.....	90	Qt.	1.45
361	Maryland Hunt Cup.....	18 Mo. Rye.....	90	Pt.	.75
27	Sherbrook.....	18 Mo. Rye.....	93	Qt.	1.45
28	Sherbrook.....	18 Mo. Rye.....	93	Pt.	.80
25	Town Tavern.....	24 Mo. Rye.....	90	Qt.	1.50
26	Town Tavern.....	24 Mo. Rye.....	90	Pt.	.80
35	Barclay's Private Stock.....	24 Mo. Rye.....	90	Qt.	1.50
36	Barclay's Private Stock.....	24 Mo. Rye.....	90	Pt.	.80
364	Rittenhouse Square.....	24 Mo. Rye.....	100	Qt.	1.65
365	Rittenhouse Square.....	24 Mo. Rye.....	100	Pt.	.85
53	Wolf Creek.....	18 Mo. Rye.....	90	Qt.	1.65
54	Wolf Creek.....	18 Mo. Rye.....	90	Pt.	.90
30	Kinsey Pennsylvania Rye.....	24 Mo. Rye.....	90	Qt.	1.75
40	Kinsey Pennsylvania Rye.....	24 Mo. Rye.....	90	Pt.	.90
57	Rewco.....	30 Mo. Rye.....	93	Qt.	1.80
58	Rewco.....	30 Mo. Rye.....	93	Pt.	.95
79	Ruxton Rye.....	20 Mo. Rye.....	93	Qt.	1.80
80	Ruxton Rye.....	20 Mo. Rye.....	93	Pt.	.95
STRAIGHT WHISKEY—CORN					
31	Cotton Picker.....	18 Mo. Corn.....	100	Qt.	1.45
32	Cotton Picker.....	18 Mo. Corn.....	100	Pt.	.75
WHISKEY—BOURBON					
65	Two Naturals.....	8 Mo. Bour.....	90	Qt.	1.25
44	Two Naturals.....	8 Mo. Bour.....	90	Pt.	.65
66	Frontier.....	12 Mo. Bour.....	90	Qt.	1.25
42	Frontier.....	12 Mo. Bour.....	90	Pt.	.65
81	Invader.....	12 Mo. Bour.....	90	Qt.	1.25
48	Invader.....	12 Mo. Bour.....	90	Pt.	.70
350	Mint Springs.....	12 Mo. Bour.....	90	Qt.	1.30
351	Mint Springs.....	12 Mo. Bour.....	90	Pt.	.70
69	Golden Eagle.....	8 Mo. Bour.....	100	Qt.	1.35
70	Golden Eagle.....	8 Mo. Bour.....	100	Pt.	.70
WHISKEY—RYE					
1	Stillbrook.....	9 Mo. Rye.....	90	Qt.	1.20
95	Stillbrook.....	9 Mo. Rye.....	90	Pt.	.65

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 43, effective July 16, 1937—supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Price
<b>WHISKEY—CORN</b>					
29	A. M. S. ....	12 Mo. Corn .....	93	Qt. ....	\$1. 25
30	A. M. S. ....	12 Mo. Corn .....	93	Pt. ....	. 65
366	Indian Queen .....	7 Mo. Corn .....	90	Qt. ....	1. 25
367	Indian Queen .....	7 Mo. Corn .....	90	Pt. ....	. 65
<b>BLENDED WHISKEY</b>					
62	Briarcliff .....		90	Qt. ....	1. 25
99	Briarcliff .....		90	Pt. ....	. 65
2	Brigadier .....		90	Qt. ....	1. 30
4	Brigadier .....		90	Pt. ....	. 70
368	Cobb's Creek .....		90	Qt. ....	1. 45
369	Cobb's Creek .....		90	Pt. ....	. 75
87	G. & W. Two Star .....		90	Qt. ....	1. 45
88	G. & W. Two Star .....		90	Pt. ....	. 75
43	Belle of Nelson .....		90	Qt. ....	1. 55
8	Belle of Nelson .....		90	Pt. ....	. 80
370	Calvert's Special .....		90	Qt. ....	1. 80
371	Calvert's Special .....		90	Pt. ....	. 95
389	Wilson "That's All" .....		90	Qt. ....	1. 80
390	Wilson "That's All" .....		90	Pt. ....	. 95
379	G. & W. Five Star .....		90	Qt. ....	1. 85
380	G. & W. Five Star .....		90	Pt. ....	. 95
33	Seagram's Five Crown .....		90	Qt. ....	1. 90
34	Seagram's Five Crown .....		90	Pt. ....	1. 00
128	Penn.-Md. DeLuxe .....		90	Qt. ....	2. 20
129	Penn.-Md. DeLuxe .....		90	Pt. ....	1. 15
381	Calvert's Reserve .....		90	Qt. ....	2. 30
382	Calvert's Reserve .....		90	Pt. ....	1. 20
37	Seagram's Seven Crown .....		90	Qt. ....	2. 45
38	Seagram's Seven Crown .....		90	Pt. ....	1. 25
<b>BLEND OF STRAIGHT WHISKIES—BOURBON</b>					
383	Old Hawthorne .....	Bour. ....	90	Qt. ....	1. 55
384	Old Hawthorne .....	Bour. ....	90	Pt. ....	. 80
374	Mattinly & Moore (M & M) .....	Bour. ....	90	Qt. ....	1. 60
375	Mattinly & Moore (M & M) .....	Bour. ....	90	Pt. ....	. 85
21	Tom Hardy .....	Bour. ....	90	Qt. ....	2. 10
22	Tom Hardy .....	Bour. ....	90	Pt. ....	1. 10
11	Golden Wedding .....	Bour. ....	90	Qt. ....	2. 20
12	Golden Wedding .....	Bour. ....	90	Pt. ....	1. 15
15	Paul Jones .....	Bour. ....	90	Qt. ....	2. 40
16	Paul Jones .....	Bour. ....	90	Pt. ....	1. 25
17	Four Roses .....	Bour. ....	90	Qt. ....	2. 75
18	Four Roses .....	Bour. ....	90	Pt. ....	1. 40
<b>BLEND OF STRAIGHT WHISKIES—RYE</b>					
387	Old Oscar Pepper (O O P) .....	Rye .....	90	Qt. ....	1. 90
388	Old Oscar Pepper (O O P) .....	Rye .....	90	Pt. ....	1. 00
385	Gibson's XXXX .....	Rye .....	90	Qt. ....	2. 20
386	Gibson's XXXX .....	Rye .....	90	Pt. ....	1. 15
391	Private Stock Rye-Park & Tilford .....	Rye .....	96	Qt. ....	3. 10
392	Private Stock Rye-Park & Tilford .....	Rye .....	96	Pt. ....	1. 60
<b>BOTTLED IN BOND WHISKEY—BOURBON</b>					
135	G & W Bonded Stock (Canadian) .....	Bour. ....	100	Qt. ....	3. 20
136	G & W Bonded Stock (Canadian) .....	Bour. ....	100	Pt. ....	1. 65
85	Old Forester .....	Bour. ....	100	Qt. ....	4. 75
86	Old Forester .....	Bour. ....	100	Pt. ....	2. 40
82	Old Grand Dad .....	Bour. ....	100	Qt. ....	4. 75
83	Old Grand Dad .....	Bour. ....	100	Pt. ....	2. 45
133	Kentucky Tavern .....	Bour. ....	100	Qt. ....	4. 80
134	Kentucky Tavern .....	Bour. ....	100	Pt. ....	2. 45
95	Cascade .....	Bour. ....	100	Qt. ....	5. 00
96	Cascade .....	Bour. ....	100	Pt. ....	2. 55
<b>BOTTLED IN BOND WHISKEY—RYE</b>					
89	Mount Vernon .....	Rye .....	100	Qt. ....	3. 25
90	Mount Vernon .....	Rye .....	100	Pt. ....	1. 65
376	Old Overholt .....	Rye .....	100	Qt. ....	3. 25
377	Old Overholt .....	Rye .....	100	Pt. ....	1. 65
137	Gibson's .....	Rye .....	100	Qt. ....	3. 25
138	Gibson's .....	Rye .....	100	Pt. ....	1. 70
<b>CANADIAN WHISKY</b>					
175	Seagram's "83" .....	5 Yr. ....	90	Qt. ....	3. 45
72	Seagram's "83" .....	5 Yr. ....	90	Pt. ....	1. 80
176	Canadian Club .....	6 Yr. ....	90. 4	Qt. ....	3. 65
74	Canadian Club .....	6 Yr. ....	90. 4	Pt. ....	1. 85
177	Hiram Walker's Private Stock .....	10 Yr. ....	90. 4	Qt. ....	4. 25
78	Hiram Walker's Private Stock .....	10 Yr. ....	90. 4	Pt. ....	2. 20

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Code	Brand	Age	Proof	Size	Price
SCOTCH WHISKY					
117	Auld Glen Rossie.....			4½ Qt.	\$2.90
104	King William IV V. O. P.....			4½ Qt.	2.95
102	Black & White.....			¾ Qt.	3.20
114	Black & White.....			4½ Pt.	1.75
103	Sanderson's Vat 69.....			4½ Qt.	3.20
107	Johnny Walker Red Label.....			4½ Qt.	3.25
101	Teacher's Highland Cream.....			4½ Qt.	3.25
111	White Horse.....			4½ Qt.	3.25
118	Martin's V. V. O.....			4½ Qt.	3.25
106	Dewar's White Label.....			4½ Qt.	3.25
105	Haig & Haig 5 Star.....			¾ Qt.	3.30
110	Haig & Haig 5 star.....			Pt.	2.10
109	Ballantine's 10 Year Old.....			4½ Qt.	3.45
119	Old Rarity-Bullock Lade.....			4½ Qt.	4.25
116	Haig & Haig Finched Decanter.....			4½ Qt.	4.40
122	Johnny Walker Black Label.....			¾ Qt.	4.40
IRISH WHISKY					
120	Bushmill's.....		90	4½ Qt.	3.20
121	John Jameson's 3 Star.....		90	4½ Qt.	3.30
IRISH WHISKY—AMERICAN TYPE					
127	Jameson Irish American.....			4½ Qt.	1.80
GIN					
139	American.....		85	Qt.	.95
140	American.....		85	Pt.	.50
154	Rhythm.....		85	Qt.	1.00
161	Rhythm.....		85	Pt.	.55
153	Cavalier.....		85	Qt.	1.65
142	Cavalier.....		85	Pt.	.75
155	Polo Club.....		85	Qt.	1.05
152	Polo Club.....		85	Pt.	.60
162	Hiram Walker's London Dry.....		90	Qt.	1.50
156	Hiram Walker's London Dry.....		90	Pt.	.70
163	Gilbey's London Dry.....		90	Qt.	1.35
165	Gilbey's London Dry.....		90	Pt.	.75
143	Dixie Belle.....		90	Qt.	1.40
144	Dixie Belle.....		90	Pt.	.75
169	Milshire.....		90	Qt.	1.40
157	Milshire.....		90	Pt.	.75
146	Old Mr. Boston.....		90	Qt.	1.40
167	Old Mr. Boston.....		90	Pt.	.80
131	Fleischmann's.....		90	Qt.	1.50
149	Fleischmann's.....		90	Pt.	.80
132	Gordon's London Dry.....		94.4	Qt.	1.65
401	Gordon's London Dry.....		94.4	Pt.	.90
150	DeKuyper's Geneva.....		90	¾ Qt.	1.85
SLOE GIN					
173	DeKuyper's.....		60	4½ Qt.	1.25
174	DeKuyper's.....		60	Pt.	.80
272	Graham (Jacquin's).....		70	4½ Qt.	1.35
289	Graham (Jacquin's).....		70	Pt.	.85
285	Old Mr. Boston.....		70	4½ Qt.	1.50
288	Old Mr. Boston.....		70	Pt.	.95
FRUIT-FLAVORED GIN					
263	R. & G. (Orange).....		80	Pt.	.75
257	Jacquin's (Mint).....		70	Pt.	.75
262	Old Mr. Boston (Orange).....		80	Pt.	.95
256	Old Mr. Boston (Lemon).....		80	Pt.	.95
BRANDY, GRAPE					
193	Vai Bros.—Old Reserve.....	24 Mo.	90	4½ Qt.	1.50
194	Vai Bros.—Old Reserve.....	24 Mo.	90	Pt.	.95
191	Balboa.....	36 Mo.	90	4½ Qt.	1.55
192	Balboa.....	36 Mo.	90	Pt.	.95
BRANDY, APPLE					
186	Old Delaware Gold Label.....	21 Mo.	90	Qt.	1.65
190	Old Delaware Gold Label.....	21 Mo.	90	Pt.	.85
160	Peak of Virginia.....	18 Mo.	90	Pt.	.90
197	Captain Apple Jack.....	21 Mo.	90	Qt.	1.85
198	Captain Apple Jack.....	24 Mo.	90	Pt.	.95
187	Laredo's 3 Star.....	24 Mo.	90	Qt.	2.60
188	Laredo's 3 Star.....	24 Mo.	90	Pt.	1.05
189	Laredo's 3 Star.....	24 Mo.	100	Qt.	2.40
192	Old Delaware White Label.....	24 Mo.	100	Pt.	1.25

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Code	Brand	Age	Proof	Size	Price
<b>BRANDY, PEACH</b>					
200	Old Delaware Gold Label.....	24 Mo.....	90	Pt.....	\$1.05
<b>BRANDY—IMPORTED—COGNAC</b>					
172	Martell 3 Star.....		84	$\frac{1}{2}$ Qt.....	4.00
171	Hennessy 3 Star.....		84	$\frac{1}{2}$ Qt.....	4.05
170	Hennessy 3 Star.....		84	$\frac{1}{2}$ Pt.....	2.15
<b>RUM—DOMESTIC</b>					
214	Carioca.....		86	$\frac{1}{2}$ Qt.....	1.50
215	Carioca.....		86	Pt.....	.90
213	Felton's Pilgrim.....		90	Qt.....	1.80
212	Felton's Pilgrim.....		90	Pt.....	.95
<b>RUM—IMPORTED</b>					
203	Don Q Gold Label—Puerto Rico.....		89	$\frac{1}{2}$ Qt.....	1.45
204	Government House—Virgin Island.....		90	$\frac{1}{2}$ Qt.....	1.65
207	Bornu's Virgin Island.....		90	$\frac{1}{2}$ Qt.....	1.70
208	One Dagger—Jamaica.....		97	$\frac{1}{2}$ Qt.....	2.85
210	Red Heart—Jamaica.....		90	$\frac{1}{2}$ Qt.....	3.00
211	Bacardi White Label.....		89	$\frac{1}{2}$ Qt.....	3.20
209	Bacardi Gold Label.....		89	$\frac{1}{2}$ Qt.....	3.60
<b>COCKTAILS</b>					
227	Martini (Jacquin).....		70	Pt.....	.90
228	Side Car (Jacquin).....		70	Pt.....	.95
229	Manhattan (Jacquin).....		70	Pt.....	.95
230	Old Fashioned (Jacquin).....		70	Pt.....	.95
234	Martini Dry Club (Heublein).....		71	$\frac{1}{2}$ Qt.....	1.70
235	Manhattan Club (Heublein).....		65	$\frac{1}{2}$ Qt.....	1.95
240	Old Fashioned Club (Heublein).....		80	$\frac{1}{2}$ Qt.....	1.95
231	Side Car Club (Heublein).....		60	$\frac{1}{2}$ Qt.....	1.95
233	Daiquiri Club (Rum) (Heublein).....		70	$\frac{1}{2}$ Qt.....	1.95
<b>CORDIALS—LIQUEURS—DOMESTIC</b>					
<i>Old Mr. Boston Line</i>					
180	Apricot Nectar Liqueur.....		80	Pt.....	.95
181	Peach Nectar Liqueur.....		80	Pt.....	.95
182	Blackberry Nectar Liqueur.....		80	Pt.....	.95
183	Rock & Rye.....		80	Qt.....	1.55
184	Rock & Rye.....		80	Pt.....	1.00
<i>Jacquin Line</i>					
268	Apricot Nectar Liqueur.....		72	Pt.....	.85
271	Peach Nectar Liqueur.....		72	Pt.....	.85
273	Cherry Nectar Liqueur.....		72	Pt.....	.85
274	Blackberry Nectar Liqueur.....		72	Pt.....	.85
276	Rock & Rye.....		70	Qt.....	1.65
290	Rock & Rye.....		70	Pt.....	.85
265	Annisette.....		64	$\frac{1}{2}$ Pt.....	.85
284	Jacqintro.....		80	$\frac{1}{2}$ Pt.....	.85
282	Kummel.....		70	Pt.....	.85
264	St. Dominic.....		80	$\frac{1}{2}$ Pt.....	.60
<i>Leroux Line</i>					
300	Rock & Rye.....		70	Pt.....	.85
307	Crene de Menthe, Green.....		70	$\frac{1}{2}$ Pt.....	.80
301	Apricot.....		70	$\frac{1}{2}$ Pt.....	.85
303	Blackberry.....		70	$\frac{1}{2}$ Pt.....	.85
305	Peach.....		70	$\frac{1}{2}$ Pt.....	.85
309	Crene de Cacao.....		60	$\frac{1}{2}$ Pt.....	.90
311	Triple Sec Curacao.....		80	$\frac{1}{2}$ Pt.....	.90
<b>CORDIALS—LIQUEURS—IMPORTED</b>					
930	Cointreau.....		80	$\frac{3}{4}$ Qt.....	4.00
944	Benedictine—D. O. M.....		86	$\frac{1}{2}$ Qt.....	4.50
947	Benedictine—D. O. M.....		86	$\frac{3}{4}$ Pt.....	2.45
949	Chartreuse—Yellow.....		86	$\frac{1}{2}$ Qt.....	4.25
<i>E. Cusenier &amp; Company</i>					
981	Freezomint—Crene de Menthe.....		60	$\frac{3}{4}$ Qt.....	3.05
983	Liqueur Jaune.....		86	$\frac{3}{4}$ Qt.....	3.10
982	Blackberry Brandy.....		60	$\frac{3}{4}$ Qt.....	3.10
984	Crene de Cacao.....		54	$\frac{3}{4}$ Qt.....	3.15
985	Apricot Brandy.....		70	$\frac{3}{4}$ Qt.....	3.15
987	Peach Brandy.....		80	$\frac{3}{4}$ Qt.....	3.25
986	Extra Sec Orange—Curacao.....		84	$\frac{3}{4}$ Qt.....	3.45

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## WINE LIST

## DOMESTIC

Code	Brand	Size	Price
SPECIAL TYPE—BRANDS			
500	Thomas Jefferson Red..... M. S.	½ Qt.	\$0. 55
501	Thomas Jefferson White..... M. S.	½ Qt.	. 55
512	Widmer's Hillside Fortified..... M. S.	½ Qt.	. 60
513	Widmer's Hillside Fortified..... M. S.	Pt.	. 35
514	Widmer's Hillside Fortified..... M. S.	Gal.	1. 95
504	Virginia Dare Red..... S.	½ Qt.	. 65
505	Virginia Dare White..... M. S.	½ Qt.	. 65
515	Southern Hospitality Blackberry..... S.	½ Qt.	. 65
PORT			
537	Val Bros. Mira-Linda..... S.	Gal.	1. 40
538	Val Bros. Old Reserve..... S.	½ Qt.	. 40
539	Val Bros. Old Reserve..... S.	Gal.	1. 70
548	Cerrito..... S.	½ Qt.	. 40
687	Mt. Sinai (Kosher)..... S.	Qt.	. 55
540	G. & D. Private Stock (White)..... S.	½ Qt.	. 55
542	S-J (Shewan-Jones, Inc.)..... S.	½ Qt.	. 55
544	Widmer's Hillside..... S.	½ Qt.	. 60
546	Widmer's Hillside..... S.	Pt.	. 35
547	Widmer's Hillside..... S.	Gal.	1. 95
541	Old Constitution..... S.	½ Qt.	. 65
543	Taylor's..... S.	½ Qt.	. 70
545	Italian Swiss Colony..... S.	¾ Qt.	. 75
549	Italian Swiss Colony..... S.	Gal.	1. 80
SHERRY			
603	Val Bros. Mira-Linda..... S.	Gal.	1. 40
600	Val Bros. Old Reserve..... M. S.	½ Qt.	. 40
601	Val Bros. Old Reserve..... M. S.	Gal.	1. 70
610	Cerrito..... S.	½ Qt.	. 40
688	Mt. Sinai (Kosher)..... M. S.	Qt.	. 55
602	S-J (Shewan-Jones, Inc.)..... M. S.	½ Qt.	. 55
614	Widmer's Hillside..... M. D.	½ Qt.	. 60
616	Widmer's Hillside..... M. D.	Pt.	. 35
617	Widmer's Hillside..... M. D.	Gal.	1. 95
611	Old Constitution..... S.	½ Qt.	. 65
613	Taylor's..... M. D.	½ Qt.	. 70
615	Italian Swiss Colony..... M. S.	¾ Qt.	. 75
619	Italian Swiss Colony..... M. S.	Gal.	1. 80
MUSCATEL			
677	Val Bros. Mira-Linda..... S.	Gal.	1. 40
682	Cerrito..... S.	½ Qt.	. 40
679	Cerrito..... S.	Gal.	1. 50
680	Val Bros. Old Reserve..... S.	½ Qt.	. 40
685	Val Bros. Old Reserve..... S.	Gal.	1. 70
689	Mt. Sinai (Kosher)..... S.	Qt.	. 55
686	S-J (Shewan-Jones, Inc.)..... S.	½ Qt.	. 55
683	Widmer's Hillside..... S.	½ Qt.	. 60
684	Widmer's Hillside..... S.	Pt.	. 35
681	Old Constitution..... S.	½ Qt.	. 65
CLARET			
730	Val Bros. Old Reserve..... D.	¾ Qt.	. 35
739	Cerrito..... D.	½ Qt.	. 35
736	S-J (Shewan-Jones, Inc.)..... D.	½ Qt.	. 50
731	Old Constitution..... D.	½ Qt.	. 55
740	Taylor's..... D.	½ Qt.	. 70
733	Italian Swiss Colony..... D.	¾ Qt.	. 70
737	Vintner's Superior..... D.	Bot.	. 70
SAUTERNES			
770	Val Bros. Old Reserve..... M. S.	¾ Qt.	. 35
776	Cerrito..... M. S.	½ Qt.	. 35
782	S-J (Shewan-Jones, Inc.)..... M. D.	½ Qt.	. 50
771	Old Constitution..... M. S.	½ Qt.	. 55
780	Widmer's Hillside..... D.	½ Qt.	. 60
777	Taylor's..... M. D.	½ Qt.	. 70
778	Vintner's Superior..... M. S.	Bot.	. 70
774	Italian Swiss Colony..... M. D.	¾ Qt.	. 75

Letters following brand names indicate the producer's classifications, namely—

S—Sweet M. S. Moderately Sweet  
D—Dry M. D. Moderately Dry

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## WINE LIST—Continued

## DOMESTIC—Continued

Code	Brand	Size	Price
TOKAY			
667	Val Bros. Mira-Lindo.....S.	Gal.....	\$1.40
668	Val Bros. Old Reserve.....S.	½ Qt.....	.40
669	Val Bros. Old Reserve.....S.	Gal.....	1.70
665	Cerrito.....S.	½ Qt.....	.40
670	S-J (Shewan-Jones, Inc.).....S.	½ Qt.....	.50
666	Italian Swiss Colony.....S.	Gal.....	1.80
660	Widmer's Hillside (White).....S.	½ Qt.....	.60
663	Widmer's Hillside (White).....S.	Pt.....	.30
664	Widmer's Hillside (White).....S.	Gal.....	1.90
661	Old Constitution.....S.	½ Qt.....	.60
662	Taylor's.....M. S.	½ Qt.....	.70
RHINE			
887	Vintner's Special.....D.	Bot.....	.70
ZINFANDEL			
894	S-J (Shewan-Jones, Inc.).....D.	½ Qt.....	.50
896	Old Constitution.....D.	½ Qt.....	.50
ITALIAN			
506	Tipo Red (Chianti).....M. D.	Bot.....	1.00
BURGUNDY			
840	Val Bros. Old Reserve.....D.	½ Qt.....	.30
841	Old Constitution.....D.	½ Qt.....	.50
SPARKLING RED			
873	Vintner's Ruby Cuvee.....M. S.	Bot.....	1.60
SPARKLING WHITE			
977	Chateau Rheims.....M. D.	½ Qt.....	1.30
975	Vintner's Private Cuvee.....M. D.	Bot.....	1.60
976	Vintner's Private Cuvee.....M. D.	½ Bot.....	.90
CHAMPAGNE			
973	Gold Seal 1916.....M. D.	Bot.....	1.90
974	Gold Seal 1916.....M. D.	½ Bot.....	1.10
978	Great Western Special Reserve.....D.	Bot.....	2.00
979	Great Western Special Reserve.....D.	½ Bot.....	1.10
971	Cook's Imperial.....D.	Bot.....	2.00
972	Cook's Imperial.....D.	½ Bot.....	1.10
VERMOUTH			
293	Tribuno—Dry.....	Qt.....	.50
294	Tribuno—Sweet.....	Qt.....	.50
291	G. & D.—Dry.....	30 oz.....	.70
292	G. & D.—Sweet.....	30 oz.....	.70
MISCELLANEOUS			
259	Orange Bitters.....(Jacquin)	8 oz.....	.60
945	Angostura Bitters.....	4 oz.....	.80
946	Grenadine.....(Jacquin)	12 oz.....	.40
312	Grenadine.....(Leroux)	½ Qt.....	.80
313	Grenadine.....(Leroux)	½ Pt.....	.50

## IMPORTED

PORT			
526	Southern Cross—Australian.....S.	½ Qt.....	\$0.80
522	Commodore—G & B.....S.	Bot.....	1.60
521	Cockburn White Label.....M. S.	Bot.....	1.60
525	Sandeman's Old Invalid.....M. S.	Bot.....	1.60
523	Invalid—G & B.....M. S.	Bot.....	1.80
524	Cockburn Dry Club.....M. D.	Bot.....	2.20
SHERRY			
589	Southern Cross—Australian.....D.	½ Qt.....	.80
583	Duff Gordon Nina.....D.	½ Qt.....	1.20
586	Jos. C. Gordon's Special Table.....M. D.	Bot.....	1.30
587	Jos. C. Gordon's Amontillado.....D.	Bot.....	1.50
585	Sandeman's 3 Star Brown.....M. S.	Bot.....	1.60
582	Duff Gordon White Label.....M. S.	Bot.....	1.60
581	Garvey's Vino de Pasto.....D.	Bot.....	1.60
588	Duff Gordon Amontillado.....D.	Bot.....	2.30

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## WINE LIST—Continued

## IMPORTED—Continued

Code	Brand	Size	Price
MUSCATEL			
678	Southern Cross—Australian.....S.	4½ Qt.....	\$0.80
CLARET			
710	Southern Cross—Australian.....D.	¾ Qt.....	.80
706	Bordeaux Rouge Superieur 1928-Bellows.....D.	Bot.....	1.00
703	St. Emilion B & G.....D.	Bot.....	1.20
701	Teyssonniere La Blunie.....D.	Bot.....	1.30
709	Chateau Lagrange 1928-Bellows.....D.	Bot.....	1.30
705	Teyssonniere Comte d'Eymet Rouge.....D.	Bot.....	1.65
707	Gr. Vin. Chat. Pontet Canet Cruse.....D.	Bot.....	1.75
708	Gr. Vin. Chat. Pontet Canet Cruse.....D.	½ Bot.....	.90
SAUTERNES (WHITE BORDEAUX)			
			N
758	Southern Cross—Australian.....S.	¾ Qt.....	.80
752	Sauternes 1928-Sichel & Fils Freres.....M. D.	Bot.....	1.25
751	Graves Cruse et Fils Freres.....D.	Bot.....	1.30
757	Haut Sauternes B & G.....S.	Bot.....	1.65
753	Chateau Grillon 1929-Bellows.....M. D.	Bot.....	1.65
MADEIRA			
640	Old Malmsey.....M. S.	Bot.....	1.70
BURGUNDY RED			
812	Pommard 1929.....D.	Bot.....	1.45
810	Macon Cruse et Fils Freres.....D.	Bot.....	1.65
811	Macon Cruse et Fils Freres.....D.	½ Bot.....	.85
814	Chambertin-Chauvenet.....D.	Bot.....	2.70
815	Chambertin-Chauvenet.....D.	½ Bot.....	1.35
BURGUNDY WHITE			
826	Chablis Superieur 1926-Sichel & Fils Freres.....D.	Bot.....	1.65
SPARKLING BURGUNDY			
861	Chauvenet Red Cap.....D.	Bot.....	3.20
RHINE			
882	Kreuznaecher 1934-Bellows.....D.	Bot.....	1.15
883	Laubenheimer.....D.	Bot.....	1.40
MOSELLE			
901	Zeltingen 1933.....D.	Bot.....	1.45
903	Berncastel 1933.....M. D.	Bot.....	1.60
ITALIAN			
922	Chianti Antinori.....D.	Bot.....	1.35
921	Marsala Hopps & Sons.....D.	Bot.....	1.50
CHAMPAGNE			
955	Moet & Chandon 1928 White Seal.....D.	Bot.....	3.25
956	Moet & Chandon 1928 White Seal.....D.	½ Bot.....	1.80
957	Lanson Extra Dry.....M. D.	Bot.....	3.45
958	Lanson Extra Dry.....M. D.	½ Bot.....	1.90
953	Pommery & Greno Non Vin.....D.	Bot.....	3.55
954	Pommery & Greno Non Vin.....D.	½ Bot.....	1.95
959	Clicquot Non Vintage.....D.	Bot.....	4.05
960	Clicquot Non Vintage.....D.	½ Bot.....	2.20
951	G. H. Mumm Extra Dry.....M. D.	Bot.....	4.05
DUBONNET			
948	Dubonnet.....	Bot.....	1.70
VERMOUTH			
253	Martini & Rossi-Dry.....	Bot.....	1.15
254	Noilly Prat-French.....	Bot.....	1.20
255	Martini & Rossi-Italian.....	Bot.....	1.30

## EXPRESS SHIPMENTS TO INDIVIDUALS

## HARD LIQUORS

According to the Act NOT MORE THAN one gallon of distilled spirits can be sold to one person at ONE TIME.

On receipt of certified check, cashier's check or money order covering the amount of your purchase, shipment will be made promptly. Prices shown are delivered prices on quantities of ONE GALLON. Less than one gallon orders will be shipped EXPRESS COLLECT.

The buyer must certify that he or she is entitled to make this purchase under the Virginia ABC Act.

## WINES

There are no restrictions as to quantity of wine shipments.

On receipt of certified check, cashier's check or money order covering the amount of your purchase, shipment will be made promptly.

Prices shown are delivered prices on quantities of ONE CASE OR MORE. Less than one case orders will be shipped EXPRESS COLLECT.

ITEMS APPEARING ON THIS LIST BUT NOT STOCKED IN THIS STORE CAN BE SUPPLIED PROMPTLY ON ORDER AT PRICES LISTED. SEE STORE MANAGER.

PRICES SUBJECT TO CHANGE WITHOUT NOTICE

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46, effective February 1, 1938—Supersedes all previous price lists<sup>1</sup>*

Code	Brand	Age <sup>2</sup>	Proof	Size	Retail price
STRAIGHT WHISKY—BOURBON					
39	Old Whig.....	18 Mo. Bour.....	90	Qt.....	\$1.15
40	Old Whig.....	18 Mo. Bour.....	90	Pt.....	.60
87	Frontier.....	18 Mo. Bour.....	90	Qt.....	1.25
88	Frontier.....	18 Mo. Bour.....	90	Pt.....	.65
17	Windsor.....	24 Mo. Bour.....	90	Qt.....	1.30
18	Windsor.....	24 Mo. Bour.....	90	Pt.....	.70
29	Old American.....	24 Mo. Bour.....	90	Qt.....	1.40
30	Old American.....	24 Mo. Bour.....	90	Pt.....	.75
19	Ten High.....	24 Mo. Bour.....	90	Qt.....	1.45
20	Ten High.....	24 Mo. Bour.....	90	Pt.....	.80
41	Old Quaker.....	24 Mo. Bour.....	90	Qt.....	1.50
42	Old Quaker.....	24 Mo. Bour.....	90	Pt.....	.80
43	Glenmore.....	24 Mo. Bour.....	90	Qt.....	1.50
44	Glenmore.....	24 Mo. Bour.....	90	Pt.....	.80
35	Bottoms Up.....	24 Mo. Bour.....	90	Qt.....	1.55
36	Bottoms Up.....	24 Mo. Bour.....	90	Pt.....	.80
21	Crab Orchard.....	24 Mo. Bour.....	93	Qt.....	1.55
22	Crab Orchard.....	24 Mo. Bour.....	93	Pt.....	.85
37	Cream of Kentucky.....	24 Mo. Bour.....	90	Qt.....	1.60
38	Cream of Kentucky.....	24 Mo. Bour.....	90	Pt.....	.85
1	Virginia Gentleman.....	24 Mo. Bour.....	90	Qt.....	1.60
2	Virginia Gentleman.....	24 Mo. Bour.....	90	Pt.....	.85
31	Old Polk.....	24 Mo. Bour.....	100	Qt.....	1.65
32	Old Polk.....	24 Mo. Bour.....	100	Pt.....	.85
3	Old Lewis Hunter.....	24 Mo. Bour.....	100	Qt.....	1.65
4	Old Lewis Hunter.....	24 Mo. Bour.....	100	Pt.....	.85
23	Shipping Port.....	18 Mo. Bour.....	90	Qt.....	1.65
24	Shipping Port.....	18 Mo. Bour.....	90	Pt.....	.90
51	Old Mr. Boston.....	24 Mo. Bour.....	90	Qt.....	1.75
52	Old Mr. Boston.....	24 Mo. Bour.....	90	Pt.....	.95
5	Century Club.....	36 Mo. Bour.....	90	Qt.....	1.90
6	Century Club.....	36 Mo. Bour.....	90	Pt.....	1.00
STRAIGHT WHISKEY—RYE					
47	Fleet Street.....	24 Mo. Rye.....	90	Qt.....	1.40
48	Fleet Street.....	24 Mo. Rye.....	90	Pt.....	.75
45	Maryland Hunt Cup.....	22 Mo. Rye.....	90	Qt.....	1.45
46	Maryland Hunt Cup.....	22 Mo. Rye.....	90	Pt.....	.75
13	Barclay's Private Stock.....	24 Mo. Rye.....	90	Qt.....	1.45
14	Barclay's Private Stock.....	24 Mo. Rye.....	90	Pt.....	.80
9	Sherbrook.....	22 Mo. Rye.....	93	Qt.....	1.50
10	Sherbrook.....	22 Mo. Rye.....	93	Pt.....	.80
7	Town Tavern.....	24 Mo. Rye.....	90	Qt.....	1.50
8	Town Tavern.....	24 Mo. Rye.....	90	Pt.....	.80

<sup>1</sup> Written in ink across top of list: "Please note there was an increase in Fed. Tax on July 1st, 1938, of 25¢ per proof gallon which is reflected in higher prices on Feby. 1st, 1939."

<sup>2</sup> Ages as shown available immediately upon exhaustion of younger stocks in this store.



*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46,  
effective February 1, 1933—Supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
STRAIGHT WHISKEY—RYE—continued					
49	Rittenhouse Square.....	30 Mo. Rye.....	100	Qt. ....	\$1. 65
50	Rittenhouse Square.....	30 Mo. Rye.....	100	Pt. ....	. 85
15	Kinsey.....	24 Mo. Rye.....	90	Qt. ....	1. 65
16	Kinsey.....	24 Mo. Rye.....	90	Pt. ....	. 85
25	Wolf Creek.....	21 Mo. Rye.....	90	Qt. ....	1. 65
26	Wolf Creek.....	21 Mo. Rye.....	90	Pt. ....	. 90
33	Ruxton Rye.....	24 Mo. Rye.....	93	Qt. ....	1. 70
37	Ruxton Rye.....	24 Mo. Rye.....	93	Pt. ....	. 90
27	Rewco.....	30 Mo. Rye.....	93	Qt. ....	1. 80
28	Rewco.....	30 Mo. Rye.....	93	Pt. ....	. 95
STRAIGHT WHISKEY—CORN					
53	Mid West Corn.....	18 Mo. Corn.....	100	Qt. ....	1. 25
54	Mid West Corn.....	18 Mo. Corn.....	100	Pt. ....	. 65
55	Colonel Glen Corn.....	18 Mo. Corn.....	90	Qt. ....	1. 25
56	Colonel Glen Corn.....	18 Mo. Corn.....	90	Pt. ....	. 65
11	Cotton Picker.....	18 Mo. Corn.....	100	Qt. ....	1. 45
12	Cotton Picker.....	18 Mo. Corn.....	100	Pt. ....	. 75
WHISKEY—BOURBON					
89	Invader.....	12 Mo. Bour.....	90	Qt. ....	1. 15
90	Invader.....	12 Mo. Bour.....	90	Pt. ....	. 60
91	Two Naturals.....	12 Mo. Bour.....	90	Qt. ....	1. 25
92	Two Naturals.....	12 Mo. Bour.....	90	Pt. ....	. 65
95	Mint Springs.....	15 Mo. Bour.....	90	Qt. ....	1. 25
96	Mint Springs.....	15 Mo. Bour.....	90	Pt. ....	. 65
93	Golden Eagle.....	9 Mo. Bour.....	100	Qt. ....	1. 35
94	Golden Eagle.....	9 Mo. Bour.....	100	Pt. ....	. 70
WHISKEY—RYE					
83	Stillbrook.....	12 Mo. Rye.....	90	Qt. ....	1. 15
84	Stillbrook.....	12 Mo. Rye.....	90	Pt. ....	. 60
WHISKEY—CORN					
97	Indian Queen.....	12 Mo. Corn.....	90	Qt. ....	1. 25
98	Indian Queen.....	12 Mo. Corn.....	90	Pt. ....	. 65
BLENDED WHISKEY					
109	Briarcliff.....		90	Qt. ....	1. 25
110	Briarcliff.....		90	Pt. ....	. 65
101	Brigadier.....		90	Qt. ....	1. 25
102	Brigadier.....		90	Pt. ....	. 70
115	Cobb's Creek.....		90	Qt. ....	1. 45
116	Cobb's Creek.....		90	Pt. ....	. 75
111	G. & W. Two Star.....		90	Qt. ....	1. 45
112	G. & W. Two Star.....		90	Pt. ....	. 75
103	Belle of Nelson.....		90	Qt. ....	1. 55
104	Belle of Nelson.....		90	Pt. ....	. 80
125	Old Mr. Boston Rocking Chair.....		90	Qt. ....	1. 60
126	Old Mr. Boston Rocking Chair.....		90	Pt. ....	. 85
127	Old Treasure.....		90	Qt. ....	1. 65
128	Old Treasure.....		90	Pt. ....	. 85
119	G. & W. Five Star.....		90	Qt. ....	1. 70
120	G. & W. Five Star.....		90	Pt. ....	. 90
117	Calvert's Special.....		90	Qt. ....	1. 80
118	Calvert's Special.....		90	Pt. ....	. 95
123	Wilson—That's All.....		90	Qt. ....	1. 80
124	Wilson—That's All.....		90	Pt. ....	. 95
105	Seagram's Five Crown.....		90	Qt. ....	1. 90
106	Seagram's Five Crown.....		90	Pt. ....	1. 00
113	Penn.-Md. DeLuxe.....		90	Qt. ....	2. 20
114	Penn.-Md. DeLuxe.....		90	Pt. ....	1. 15
121	Calvert's Reserve.....		90	Qt. ....	2. 30
122	Calvert's Reserve.....		90	Pt. ....	1. 20
107	Seagram's Seven Crown.....		90	Qt. ....	2. 45
108	Seagram's Seven Crown.....		90	Pt. ....	1. 25
BLEND OF STRAIGHT WHISKIES—BOURBON					
163	Old Hawthorne.....	Bour.....	90	Qt. ....	1. 55
164	Old Hawthorne.....	Bour.....	90	Pt. ....	. 80
161	Mattingly & Moore (M & M).....	Bour.....	90	Qt. ....	1. 60
162	Mattingly & Moore (M & M).....	Bour.....	90	Pt. ....	. 85
159	Tom Hardy.....	Bour.....	90	Qt. ....	1. 60
160	Tom Hardy.....	Bour.....	90	Pt. ....	. 85
153	Golden Wedding.....	Bour.....	90	Qt. ....	2. 20
154	Golden Wedding.....	Bour.....	90	Pt. ....	1. 15
155	Paul Jones.....	Bour.....	90	Qt. ....	2. 40

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46,  
effective February 1, 1938—Supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
<b>BLEND OF STRAIGHT WHISKIES—BOURBON—CON.</b>					
156	Paul Jones.....	Bour.	90	Pt.....	\$1.25
157	Four Roses.....	Bour.	90	Qt.....	2.75
158	Four Roses.....	Bour.	90	Pt.....	1.40
<b>BLEND OF STRAIGHT WHISKIES—RYE</b>					
167	Old Oscar Pepper (O O P).....	Rye.....	90	Qt.....	1.90
168	Old Oscar Pepper (O O P).....	Rye.....	90	Pt.....	1.00
165	Gibson's XXXX.....	Rye.....	90	Qt.....	2.20
166	Gibson's XXXX.....	Rye.....	90	Pt.....	1.15
169	Private Stock Rye—Park & Tilford.....	Rye.....	92	Qt.....	2.50
170	Private Stock Rye—Park & Tilford.....	Rye.....	92	Pt.....	1.45
<b>BOTTLED IN BOND WHISKEY—BOURBON</b>					
201	Old Grand Dad.....	Bour.	100	Qt.....	3.00
202	Old Grand Dad.....	Bour.	100	Pt.....	1.55
203	Old Forester.....	Bour.	100	Qt.....	3.20
204	Old Forester.....	Bour.	100	Pt.....	1.65
207	Kentucky Tavern.....	Bour.	100	Qt.....	3.45
208	Kentucky Tavern.....	Bour.	100	Pt.....	1.80
<b>BOTTLED IN BOND WHISKEY—RYE</b>					
205	Mount Vernon.....	Rye.....	100	Qt.....	2.65
206	Mount Vernon.....	Rye.....	100	Pt.....	1.35
211	Old Overholt.....	Rye.....	100	Qt.....	2.65
212	Old Overholt.....	Rye.....	100	Pt.....	1.35
209	Gibson's.....	Rye.....	100	Qt.....	2.65
210	Gibson's.....	Rye.....	100	Pt.....	1.40
<b>CANADIAN WHISKEY</b>					
181	Seagram's "83".....	5 Yr.....	90	Qt.....	3.45
182	Seagram's "83".....	5 Yr.....	90	Pt.....	1.80
187	G. & W. Bonded Stock.....	7 Yr. Bour.	100	Qt.....	3.60
188	G. & W. Bonded Stock.....	7 Yr. Bour.	100	Pt.....	1.85
183	Canadian Club.....	6 Yr.....	90.4	Qt.....	3.65
184	Canadian Club.....	6 Yr.....	90.4	Pt.....	1.85
185	Hiram Walker's Private Stk.....	10 Yr.....	90.4	Qt.....	4.25
186	Hiram Walker's Private Stk.....	10 Yr.....	90.4	Pt.....	2.20
<b>SCOTCH WHISKEY</b>					
209	Old Benefacto Pinched Decanter.....			Pt.....	1.70
269	Harvey's Special Blended.....			4/5 Qt.....	2.65
275	Auld Glen Rossie.....			4/5 Qt.....	2.90
285	King William IV V. O. P.....			4/5 Qt.....	2.95
267	Peter Dawson.....			4/5 Qt.....	3.15
295	Black & White.....			4/5 Qt.....	3.20
296	Black & White.....			4/5 Pt.....	1.70
287	Sanderson's Vat 69.....			4/5 Qt.....	3.20
293	Johnny Walker Red Label.....			4/5 Qt.....	3.25
289	Teacher's Highland Cream.....			4/5 Qt.....	3.25
279	White Horse.....			4/5 Qt.....	3.25
280	White Horse.....			4/5 Pt.....	1.75
283	Dewar's White Label.....			4/5 Qt.....	3.25
273	Martin's V. V. O.....			4/5 Qt.....	3.30
297	Haig & Haig Five Star.....			4/5 Qt.....	3.30
298	Haig & Haig Five Star.....			Pt.....	2.10
281	Ballantine's 10 Year Old.....			4/5 Qt.....	3.60
271	Old Rarity 12 Year Old.....			4/5 Qt.....	4.25
277	Haig & Haig Pinched Decanter.....			4/5 Qt.....	4.40
291	Johnny Walker Black Label.....			4/5 Qt.....	4.40
<b>IRISH WHISKEY</b>					
195	Bushmill's.....		90	4/5 Qt.....	3.20
196	John Jameson's 3 Star.....		90	4/5 Qt.....	3.30
<b>IRISH AMERICAN WHISKEY</b>					
197	William Jameson Irish American.....			4/5 Qt.....	1.95
<b>GIN</b>					
305	American.....		85	Qt.....	.95
306	American.....		85	Pt.....	.50
307	Cavaller.....		85	Qt.....	.95
308	Cavaller.....		85	Pt.....	.50
319	Rhythm.....		85	Qt.....	1.00

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46, effective February 1, 1938—Supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
GIN—continued					
320	Rhythm		85	Pt	\$0.55
317	Polo Club		85	Qt	1.05
318	Polo Club		85	Pt	.70
315	Hiram Walker's London Dry		90	Qt	1.30
316	Hiram Walker's London Dry		90	Pt	.70
313	Gilbey's London Dry		90	Qt	1.35
314	Gilbey's London Dry		90	Pt	.75
309	Dixie Belle		90	Qt	1.40
310	Dixie Belle		90	Pt	.75
321	Milshire		90	Qt	1.40
322	Milshire		90	Pt	.75
311	Old Mr. Boston		90	Qt	1.40
312	Old Mr. Boston		90	Pt	.80
301	Fleischmann's		90	Qt	1.50
302	Fleischmann's		90	Pt	.80
303	Gordon's London Dry		94.4	Qt	1.65
304	Gordon's London Dry		94.4	Pt	.90
323	DeKuyper's Geneva		90	4/5 Qt	1.85
SLOE GIN					
519	DeKuyper's		60	4/5 Qt	1.25
520	DeKuyper's		60	Pt	.80
511	Graham (Jacquin's)		70	4/5 Qt	1.35
512	Graham (Jacquin's)		70	Pt	.85
513	Old Mr. Boston		70	4/5 Qt	1.45
514	Old Mr. Boston		70	Pt	.95
FRUIT FLAVORED GIN					
528	R. & G. (Orange)		80	Pt	.75
524	Jacquin's (Mint)		70	Pt	.75
526	Old Mr. Boston (Orange)		80	Pt	.95
BRANDY GRAPE					
353	Vai Bros.-Old Reserve	24 Mo	90	4/5 Qt	1.50
354	Vai Bros.-Old Reserve	24 Mo	90	Pt	.95
351	Balboa	36 Mo	90	4/5 Qt	1.55
352	Balboa	36 Mo	90	Pt	.95
356	A. R. Morrow Bottled in Bond	6 Year	100	Pt	1.50
BRANDY APPLE					
367	Old Delaware Gold Label	21 Mo	90	Qt	1.65
368	Old Delaware Gold Label	21 Mo	90	Pt	.85
374	Peak of Virginia	16 Mo	90	Pt	.90
371	Captain Apple Jack	24 Mo	90	Qt	1.85
372	Captain Apple Jack	24 Mo	90	Pt	.95
365	Laird's 3 Star	30 Mo	90	Qt	2.00
366	Laird's 3 Star	30 Mo	90	Pt	1.05
369	Hildick White Label	24 Mo	100	Qt	2.40
370	Hildick White Label	24 Mo	100	Pt	1.25
BRANDY PEACH					
392	Old Delaware Gold Label	24 Mo	90	Pt	1.00
BRANDY—IMPORTED—COGNAC					
399	Martell 3 Star		84	4/5 Qt	4.00
397	Hennessy 3 Star		84	4/5 Qt	4.05
398	Hennessy 3 Star		84	4/5 Pt	2.15
RUM—DOMESTIC					
403	Carioca		86	4/5 Qt	1.50
404	Carioca		86	Pt	.90
401	Felton's Pilgrim		90	Qt	1.80
402	Felton's Pilgrim		90	Pt	.95
RUM—IMPORTED					
421	Don Q Gold Label-Puerto Rico		89	4/5 Qt	1.55
423	Government House-Virgin Island		90	4/5 Qt	1.65
425	Bornn's Virgin Island Gold Label		90	4/5 Qt	1.70
427	One Dagger-Jamaica		97	4/5 Qt	2.85
431	Red Heart-Jamaica		90	4/5 Qt	3.10
433	Bacardi White Label		89	4/5 Qt	3.20
429	Bacardi Gold Label		89	4/5 Qt	3.60

Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 48  
effective February 1, 1938—Supersedes all previous price lists—Continued

Code	Brand	Age	Proof	Size	Retail price
<b>COCKTAILS</b>					
450	Martini (Jacquin).....		70	Pt.....	\$0.90
452	Side Car (Jacquin).....		70	Pt.....	.90
454	Manhattan (Jacquin).....		70	Pt.....	.90
456	Old Fashioned (Jacquin).....		70	Pt.....	.90
461	Martini Dry Club (Heublein).....		71	4/5 Qt.....	1.70
463	Manhattan Club (Heublein).....		65	4/5 Qt.....	1.90
465	Old Fashioned Club (Heublein).....		80	4/5 Qt.....	1.90
467	Side Car Club (Heublein).....		60	4/5 Qt.....	1.90
459	Daiquiri Club (Rum) (Heublein).....		70	4/5 Qt.....	1.90
<b>CORDIALS—LIQUEURS—DOMESTIC</b>					
<i>Old Mr. Boston Line</i>					
530	Apricot Nectar Liqueur.....		80	Pt.....	.90
532	Peach Nectar Liqueur.....		80	Pt.....	.90
534	Blackberry Nectar Liqueur.....		80	Pt.....	.90
535	Rock & Rye.....		80	Qt.....	1.80
536	Rock & Rye.....		80	Pt.....	1.00
<i>Jacquin Line</i>					
542	Apricot Nectar Liqueur.....		72	Pt.....	.80
546	Peach Nectar Liqueur.....		72	Pt.....	.80
548	Cherry Nectar Liqueur.....		72	Pt.....	.80
550	Blackberry Nectar Liqueur.....		72	Pt.....	.80
551	Rock & Rye.....		70	Qt.....	1.60
552	Rock & Rye.....		70	Pt.....	.80
540	Annisette.....		64	½ Pt.....	.80
554	Jacquinto.....		80	½ Pt.....	.80
556	Kummel.....		70	Pt.....	.80
538	St. Dominic.....		80	½ Pt.....	.90
<i>Leroux Line</i>					
558	Rock & Rye.....		70	Pt.....	.80
566	Creme de Menthe Green.....		70	½ Pt.....	.80
560	Apricot.....		70	½ Pt.....	.80
562	Blackberry.....		70	½ Pt.....	.80
564	Peach.....		70	½ Pt.....	.80
568	Creme de Cacao.....		60	½ Pt.....	.90
570	Triple Sec Curacao.....		80	½ Pt.....	.90
<b>CORDIALS—LIQUEURS—IMPORTED</b>					
581	Cointreau.....		80	¾ Qt.....	4.00
583	Benedictine-D. O. M.....		86	¾ Qt.....	4.50
584	Benedictine-D. O. M.....		86	¾ Pt.....	2.40
585	Chartreuse-Yellow.....		86	¾ Qt.....	4.10
<i>E. Cusenier &amp; Company</i>					
586	Creme de Menthe—Green.....		60	½ Bot.....	1.60
588	Creme de Menthe—White.....		60	½ Bot.....	1.60
590	Blackberry Brandy.....		60	½ Bot.....	1.60
592	Creme de Cacao.....		54	½ Bot.....	1.60
594	Apricot Brandy.....		70	½ Bot.....	1.70
596	Extra Sec Orange Curacao.....		84	½ Bot.....	1.70
598	Peach Brandy.....		80	½ Bot.....	1.70
<b>PURE GRAIN ETHYL ALCOHOL</b>					
907	1 Qt. container—Prices furnished on request.				
999	1 Gal. container—Prices furnished on request.				

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46, effective February 1, 1938—Supersedes all previous price lists—Continued*

## WINE

## DOMESTIC

Code	Brand	Size	Retail price
SPECIAL TYPE—BRANDS			
600	Thomas Jefferson Red..... M. S.	$\frac{1}{2}$ Qt.....	\$0.55
601	Thomas Jefferson White..... M. S.	$\frac{1}{2}$ Qt.....	.55
647	Widmer's Hillside Fortified..... M. S.	$\frac{1}{2}$ Qt.....	.60
648	Widmer's Hillside Fortified..... M. S.	Pt.....	.35
649	Widmer's Hillside Fortified..... M. S.	Gal.....	1.95
602	Virginia Dare Red..... S.	$\frac{1}{2}$ Qt.....	.65
603	Virginia Dare White..... M. S.	$\frac{1}{2}$ Qt.....	.65
604	Southern Hospitality Blackberry..... S.	$\frac{1}{2}$ Qt.....	.65
PORT			
667	Vai Bros. Mira-Linda..... S.	Gal.....	1.40
668	Vai Bros. Old Reserve..... S.	$\frac{1}{2}$ Qt.....	.40
669	Vai Bros. Old Reserve..... S.	Gal.....	1.60
674	Cerrito—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.40
680	Mt. Sinai (Kosher)—Fruit Industries..... S.	Qt.....	.55
670	G. & D. Private Stock (White)..... S.	$\frac{1}{2}$ Qt.....	.55
672	S-J (Shewan-Jones, Inc.)..... S.	$\frac{1}{2}$ Qt.....	.55
675	Widmer's Hillside..... S.	$\frac{1}{2}$ Qt.....	.60
676	Widmer's Hillside..... S.	Pt.....	.35
677	Widmer's Hillside..... S.	Gal.....	1.95
671	Old Constitution—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.65
673	Taylor's..... S.	$\frac{1}{2}$ Qt.....	.75
678	Italian Swiss Colony..... S.	$\frac{3}{4}$ Qt.....	.75
679	Italian Swiss Colony..... S.	Gal.....	1.80
SHERRY			
709	Vai Bros. Mira-Linda..... S.	Gal.....	1.40
708	Vai Bros. Old Reserve..... M. S.	$\frac{1}{2}$ Qt.....	.40
707	Vai Bros. Old Reserve..... M. S.	Gal.....	1.60
713	Cerrito—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.40
720	Mt. Sinai (Kosher)—Fruit Industries..... M. S.	Qt.....	.55
711	S-J (Shewan-Jones, Inc.)..... M. S.	$\frac{1}{2}$ Qt.....	.55
714	Widmer's Hillside..... M. D.	$\frac{1}{2}$ Qt.....	.60
715	Widmer's Hillside..... M. D.	Pt.....	.35
716	Widmer's Hillside..... M. D.	Gal.....	1.95
710	Old Constitution—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.65
712	Taylor's..... M. D.	$\frac{1}{2}$ Qt.....	.75
717	Italian Swiss Colony..... M. S.	$\frac{3}{4}$ Qt.....	.75
718	Italian Swiss Colony..... M. S.	Gal.....	1.80
MUSCATEL			
732	Vai Bros. Mira-Linda..... S.	Gal.....	1.40
735	Cerrito—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.40
736	Cerrito—Fruit Industries..... S.	Gal.....	1.50
730	Vai Bros. Old Reserve..... S.	$\frac{1}{2}$ Qt.....	.40
731	Vai Bros. Old Reserve..... S.	Gal.....	1.60
739	Mt. Sinai (Kosher)—Fruit Industries..... S.	Qt.....	.55
734	S-J (Shewan-Jones, Inc.)..... S.	$\frac{1}{2}$ Qt.....	.55
737	Widmer's Hillside..... S.	$\frac{1}{2}$ Qt.....	.60
738	Widmer's Hillside..... S.	Pt.....	.35
733	Old Constitution—Fruit Industries..... S.	$\frac{1}{2}$ Qt.....	.65
CLARET			
759	Vai Bros. Old Reserve..... D.	$\frac{1}{2}$ Qt.....	.35
763	Cerrito—Fruit Industries..... D.	$\frac{1}{2}$ Qt.....	.35
761	S-J (Shewan-Jones, Inc.)..... D.	$\frac{1}{2}$ Qt.....	.50
760	Old Constitution—Fruit Industries..... D.	$\frac{1}{2}$ Qt.....	.55
765	Vintner's Superior..... D.	Bot.....	.65
764	Italian Swiss Colony..... D.	$\frac{3}{4}$ Qt.....	.70
762	Taylor's..... D.	$\frac{1}{2}$ Qt.....	.75
SAUTERNES			
783	Vai Bros. Old Reserve..... M. S.	$\frac{1}{2}$ Qt.....	.35
787	Cerrito—Fruit Industries..... M. S.	$\frac{1}{2}$ At.....	.35
785	S-J (Shewan-Jones, Inc.)..... M. D.	$\frac{1}{2}$ Qt.....	.50
784	Old Constitution—Fruit Industries..... M. S.	$\frac{1}{2}$ Qt.....	.55
788	Widmer's Hillside..... D.	$\frac{1}{2}$ Qt.....	.60
790	Vintner's Superior..... M. S.	Bot.....	.65
786	Taylor's..... M. D.	$\frac{1}{2}$ Qt.....	.75
789	Italian Swiss Colony..... M. D.	$\frac{3}{4}$ Qt.....	.75

Letters following brand names indicate the producer's classification, namely—

S—Sweet      M. S.—Moderately Sweet  
D—Dry      M. D.—Moderately Dry

Vintage years as shown may change without notice.

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46,  
effective February 1, 1938—Supersedes all previous price lists—Continued*

WINE—Continued  
DOMESTIC—Continued

Code	Brand		Size	Retail price
TOKAY				
807	Vai Bros. Mira-Linda.....	S.	Gal.	\$1.40
806	Vai Bros. Old Reserve.....	S.	½ Qt.	.40
805	Vai Bros. Old Reserve.....	S.	Gal.	1.60
811	Cerrito—Fruit Industries.....	S.	½ Qt.	.40
809	S-J (Shewan-Jones, Inc.).....	S.	½ Qt.	.55
815	Italian Swiss Colony.....	S.	Gal.	1.80
812	Widmer's Hillside (White).....	S.	½ Qt.	.60
813	Widmer's Hillside (White).....	S.	Pt.	.35
814	Widmer's Hillside (White).....	S.	Gal.	1.95
808	Old Constitution—Fruit Industries.....	S.	½ Qt.	.65
810	Taylor's.....	M. S.	½ Qt.	.75
RHINE				
856	Vintner's Special.....	D.	Bot.	.65
ZINFANDEL				
858	S-J (Shewan-Jones, Inc.).....	D.	½ Qt.	.50
857	Old Constitution—Fruit Industries.....	D.	½ Qt.	.55
ITALIAN				
876	Tipo Red (Chianti).....	M. D.	Bot.	1.00
BURGUNDY				
841	Vai Bros. Old Reserve.....	D.	½ Qt.	.35
842	Old Constitution—Fruit Industries.....	D.	½ Qt.	.55
SPARKLING BURGUNDY				
840	Great Western.....	M. S.	Bot.	2.00
SPARKLING RED				
843	Vintner's Ruby Cuvee.....	M. S.	Bot.	1.55
SPARKLING WHITE				
846	Chateau Rheims.....	M. D.	½ Qt.	1.40
844	Vintner's Private Cuvee.....	M. D.	Bot.	1.55
845	Vintner's Private Cuvee.....	M. D.	½ Bot.	.90
CHAMPAGNE				
895	Gold Seal 1916.....	M. D.	Bot.	1.06
896	Gold Seal 1916.....	M. D.	½ Bot.	1.10
897	Great Western Special Reserve.....	D.	½ Qt.	2.00
898	Great Western Special Reserve.....	D.	½ Pt.	1.15
893	Cook's Imperial.....	D.	Bot.	2.05
894	Cook's Imperial.....	D.	½ Bot.	1.15
VERMOUTH				
974	Tribuno-Sweet.....		Qt.	.55
973	Tribuno-Dry.....		Qt.	.60
971	G. & D.-Dry.....		30 oz.	.70
972	G. & D.-Sweet.....		30 oz.	.70

## IMPORTED

PORT				
655	Southern Cross-Australian.....	S.	½ Qt.	\$0.80
650	Cockburn White Label.....	M. S.	Bot.	1.55
651	Commodore-G & B.....	S.	Bot.	1.60
653	Cockburn Dry Club.....	M. D.	Bot.	2.15
SHERRY				
688	Southern Cross-Australian.....	D.	½ Qt.	.80
683	Duff Gordon Nina.....	D.	½ Qt.	1.20
685	Jos. C. Gordon's Special Table.....	M. D.	Bot.	1.35
686	Jos. C. Gordon's Amontillado.....	D.	Bot.	1.60
682	Duff Gordon White Label.....	M. S.	Bot.	1.60
684	Sandeman's 3 Star Brown.....	M. S.	Bot.	1.65
681	Garvey's Vino de Pasto.....	D.	Bot.	1.65
687	Duff Gordon Amontillado.....	D.	Bot.	2.30
MUSCATEL				
723	Southern Cross-Australian.....	S.	½ Qt.	.80
CLARET				
749	Southern Cross-Australian.....	D.	½ Qt.	.80
743	Bordeaux Rouge Superieur 1928-Bellows.....	D.	Bot.	.95
741	St. Emilion B & G.....	D.	Bot.	1.20
740	Teyssonniere La Blunie.....	D.	Bot.	1.30
746	Chateau Lagrange 1928-Bellows.....	D.	Bot.	1.30
744	Gr. Vin. Chat. Pontet Canet Cruse.....	D.	Bot.	1.45
745	Gr. Vin. Chat. Pontet Canet Cruse.....	D.	½ Bot.	.75
742	Teyssonniere Comte d'Eymet Rouge.....	D.	Bot.	1.65

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 46, effective February 1, 1938—Supersedes all previous price lists—Continued*

## WINE—Continued

## IMPORTED—Continued

Code	Brand	Size	Retail price
SAUTERNES (WHITE BORDEAUX)			
770	Southern Cross-Australian..... S.	½ Qt.....	\$0.80
771	Bordeaux Blanc Supérieur 1928-Bellows..... M. D.	Bot.....	.95
766	Graves Cruse et Fils Freres..... D.	Bot.....	1.10
767	Sauternes 1928-Sichel & Fils Freres..... M. D.	Bot.....	1.05
768	Chateau Grillon 1934-Bellows..... M. D.	Bot.....	1.60
769	Haut Sauternes B & G..... S.	Bot.....	1.65
MADEIRA			
791	Old Malmsey..... M. S.	Bot.....	1.70
BURGUNDY RED			
826	Macon Cruse et Fils Freres..... D.	Bot.....	1.30
827	Macon Cruse et Fils Freres..... D.	½ Bot.....	.65
828	Pommard 1929..... D.	Bot.....	1.25
829	Chambertin-Chauvenet..... D.	Bot.....	2.30
830	Chambertin-Chauvenet..... D.	½ Bot.....	1.15
BURGUNDY WHITE			
831	Chablis Supérieur 1929-Sichel & Fils Freres..... D.	Bot.....	1.15
SPARKLING BURGUNDY			
832	Chauvenet Red Cap..... D.	Bot.....	3.25
RHINE			
849	Langenbach's Hoch Superior-Bellows..... D.	Bot.....	1.30
848	Laubenheimer..... D.	Bot.....	1.40
MOSELLE			
861	Zeltinger 1935..... D.	Bot.....	1.15
862	Berncastel 1933..... M. D.	Bot.....	1.70
ITALIAN			
869	Martini & Rossi Chianti..... D.	Qt.....	.80
868	Chianti Antinori..... D.	Qt.....	1.25
867	Marsala Hopps & Sons..... D.	Bot.....	1.50
CHAMPAGNE			
882	Moët & Chandon Extra Dry White Seal..... D.	Bot.....	2.90
883	Moët & Chandon Extra Dry White Seal..... D.	½ Bot.....	1.65
884	Lanson Extra Dry..... M. D.	Bot.....	3.35
885	Lanson Extra Dry..... M. D.	½ Bot.....	1.85
880	Pommery & Greno Non Vin..... D.	Bot.....	3.45
881	Pommery & Greno Non Vin..... D.	½ Bot.....	1.75
886	Clicquot..... D.	Bot.....	4.05
887	Clicquot..... D.	½ Bot.....	2.20
878	G. H. Mumm Extra Dry..... M. D.	Bot.....	4.05
879	G. H. Mumm Extra Dry..... M. D.	½ Bot.....	2.20
DUBONNET			
948	Dubonnet.....	Bot.....	1.70
VERMOUTH			
949	Martini & Rossi-Dry.....	Bot.....	1.15
951	Noilly Prat-French.....	Bot.....	1.20
950	Martini & Rossi-Italian.....	Bot.....	1.30
MISCELLANEOUS			
977	Orange Bitters..... (Jacquin)	8 oz.....	\$0.65
976	Angostura Bitters.....	4 oz.....	.85
980	Grenadine..... (Jacquin)	12 oz.....	.45
978	Grenadine..... (Leroux)	½ Qt.....	.85
979	Grenadine..... (Leroux)	½ Pt.....	.50

## EXPRESS SHIPMENTS TO INDIVIDUALS

## HARD LIQUORS

According to the Act NOT MORE THAN one gallon of distilled spirits may be sold to one person at ONE TIME.

On receipt of certified check, cashier's check, or money order, covering amount of your purchase, shipment will be made promptly EXPRESS COLLECT.

The buyer must certify that he or she is entitled to make this purchase under the Virginia ABC Act. Orders from territories where the sale of alcoholic beverages other than wine or beer are prohibited must be made in accordance with special form, copy of which will be furnished on request.

## WINES

There are no restrictions as to quantity of wine shipments.

On receipt of certified check, cashier's check, or money order, covering amount of your purchase, shipment will be made promptly.

Prices shown are delivered prices on quantities of one case or more. Less than one case will be shipped EXPRESS COLLECT.

## SPECIAL ORDERS FOR WINES

We carry a representative list of Domestic and Foreign wines, but all wines on the American market are available to citizens of the State. Upon request, prices will be secured, and orders placed on receipt of the amount involved. No delivery charge will be made on such nonlisted items if delivery is accepted at your nearest ABC Store on regular weekly shipment. If shipped direct to customer, EXPRESS charges will be COLLECT. Special orders MUST BE IN CASE LOTS.

All wines, as well as liquors, must be purchased through this Board or its licensees within the State in accordance with the ABC Act.

ITEMS APPEARING ON THIS LIST MARKED THUS (X), ARE NOT STOCKED IN THIS STORE BUT CAN BE SUPPLIED PROMPTLY ON ORDER AT PRICES LISTED. SEE STORE MANAGER. ITEMS APPEARING ON THIS LIST MARKED THUS (0), HAVE BEEN DISCONTINUED

## PRICES SUBJECT TO CHANGE WITHOUT NOTICE

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49 effective October 1, 1938—supersedes all previous price lists*

Code	Brand	Age <sup>1</sup>	Proof	Size	Retail price
STRAIGHT WHISKEY—BOURBON					
61	Frontier.....	24 Mo.....	90	Qt.....	\$1.35
62	Frontier.....	24 Mo.....	90	Pt.....	.70
11	Mint Springs.....	24 Mo.....	90	Qt.....	1.35
12	Mint Springs.....	24 Mo.....	90	Pt.....	.70
17	Windsor.....	24 Mo.....	90	Qt.....	1.40
18	Windsor.....	24 Mo.....	90	Pt.....	.75
65	Golden Eagle.....	24 Mo.....	100	Qt.....	1.45
64	Golden Eagle.....	24 Mo.....	100	Pt.....	.75
1	Virginia Gentleman.....	24 Mo.....	90	Qt.....	1.45
2	Virginia Gentleman.....	24 Mo.....	90	Pt.....	.80
29	Old American.....	36 Mo.....	90	Qt.....	1.50
30	Old American.....	36 Mo.....	90	Pt.....	.80
35	Bottoms Up.....	24 Mo.....	90	Qt.....	1.50
36	Bottoms Up.....	24 Mo.....	90	Pt.....	.80
21	Crab Orchard.....	24 Mo.....	90	Qt.....	1.55
22	Crab Orchard.....	24 Mo.....	90	Pt.....	.80
19	Ten High.....	24 Mo.....	90	Qt.....	1.55
20	Ten High.....	24 Mo.....	90	Pt.....	.85
41	Old Quaker.....	36 Mo.....	90	Qt.....	1.60
42	Old Quaker.....	36 Mo.....	90	Pt.....	.85
37	Cream of Kentucky.....	24 Mo.....	90	Qt.....	1.60
38	Cream of Kentucky.....	24 Mo.....	90	Pt.....	.85
23	Shipping Port.....	24 Mo.....	90	Qt.....	1.60
24	Shipping Port.....	24 Mo.....	90	Pt.....	.85
31	Old Polk.....	24 Mo.....	100	Qt.....	1.6

<sup>1</sup> Ages as shown available immediately upon exhaustion of younger stocks in this store.



*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail Price
STRAIGHT WHISKEY—BOURBON—continued					
32	Old Polk.....	24 Mo.....	100	Pt.....	\$0.85
57	Glenmore Gold Label.....	30 Mo.....	100	Qt.....	1.65
58	Glenmore Gold Label.....	30 Mo.....	100	Pt.....	.90
15	Old Lewis Hunter.....	36 Mo.....	90	Qt.....	1.85
16	Old Lewis Hunter.....	36 Mo.....	90	Pt.....	.95
51	Old Mr. Boston.....	36 Mo.....	90	Qt.....	1.85
52	Old Mr. Boston.....	36 Mo.....	90	Pt.....	1.00
5	Century Club.....	36 Mo.....	90	Qt.....	1.90
6	Century Club.....	36 Mo.....	90	Pt.....	1.00
STRAIGHT WHISKEY—RYE					
7	Town Tavern.....	24 Mo.....	90	Qt.....	1.40
8	Town Tavern.....	24 Mo.....	90	Pt.....	.70
47	Fleet Street.....	24 Mo.....	90	Qt.....	1.55
48	Fleet Street.....	24 Mo.....	90	Pt.....	.80
33	Ruxton Rye.....	24 Mo.....	90	Qt.....	1.50
34	Ruxton Rye.....	24 Mo.....	90	Pt.....	.80
45	Maryland Hunt Cup.....	27 Mo.....	90	Qt.....	1.55
46	Maryland Hunt Cup.....	27 Mo.....	90	Pt.....	.80
13	Barclay's Private Stock.....	24 Mo.....	90	Qt.....	1.55
14	Barclay's Private Stock.....	24 Mo.....	90	Pt.....	.85
9	Sherbrook.....	27 Mo.....	93	Qt.....	1.60
10	Sherbrook.....	27 Mo.....	93	Pt.....	.85
25	Wolf Creek.....	24 Mo.....	90	Qt.....	1.60
26	Wolf Creek.....	24 Mo.....	90	Pt.....	.85
49	Rittenhouse Square.....	36 Mo.....	100	Qt.....	1.65
50	Rittenhouse Square.....	36 Mo.....	100	Pt.....	.85
27	Rewco.....	30 Mo.....	93	Qt.....	1.65
28	Rewco.....	30 Mo.....	93	Pt.....	.85
STRAIGHT WHISKEY—CORN					
53	Midwest Corn.....	24 Mo.....	100	Qt.....	1.35
54	Midwest Corn.....	24 Mo.....	100	Pt.....	.70
WHISKEY—BOURBON					
93	Old Whig.....	18 Mo.....	90	Qt.....	1.25
94	Old Whig.....	18 Mo.....	90	Pt.....	.65
89	Invader.....	12 Mo.....	90	Qt.....	1.25
90	Invader.....	12 Mo.....	90	Pt.....	.65
91	Two Naturals.....	12 Mo.....	90	Qt.....	1.30
92	Two Naturals.....	12 Mo.....	90	Pt.....	.70
80	Ace Brand.....	12 Mo.....	85	Pt.....	.60
WHISKEY—RYE					
83	Stillbrook.....	18 Mo.....	90	Qt.....	1.25
84	Stillbrook.....	18 Mo.....	90	Pt.....	.65
88	Southern Supreme.....	12 Mo.....	85	Pt.....	.60
WHISKEY—CORN					
85	Colonel Glen.....	18 Mo.....	90	Qt.....	1.30
86	Colonel Glen.....	18 Mo.....	90	Pt.....	.70
97	Indian Queen.....	12 Mo.....	90	Qt.....	1.35
98	Indian Queen.....	12 Mo.....	90	Pt.....	.70
81	Cotton Picker.....	18 Mo.....	100	Qt.....	1.45
82	Cotton Picker.....	18 Mo.....	100	Pt.....	.75
BLENDED WHISKEY					
101	Brigadier.....		90	Qt.....	1.30
102	Brigadier.....		90	Pt.....	.70
109	Briarecliff.....		90	Qt.....	1.35
110	Briarecliff.....		90	Pt.....	.70
103	Belle of Nelson.....		90	Qt.....	1.40
104	Belle of Nelson.....		90	Pt.....	.75
115	Cobb's Creek.....		90	Qt.....	1.45
116	Cobb's Creek.....		90	Pt.....	.75
111	G. & W. Two Star.....		90	Qt.....	1.50
112	G. & W. Two Star.....		90	Pt.....	.80
127	Old Treasure.....		90	Qt.....	1.65
128	Old Treasure.....		90	Pt.....	.85
119	G. & W. Five Star.....		90	Qt.....	1.80
120	G. & W. Five Star.....		90	Pt.....	.95
125	Old Mr. Boston Rocking Chair.....		90	Qt.....	1.83
126	Old Mr. Boston Rocking Chair.....		90	Pt.....	1.00
117	Calvert's Special.....		90	Qt.....	1.85
118	Calvert's Special.....		90	Pt.....	1.00
123	Wilson—That's All.....		90	Qt.....	1.85

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
BLENDED WHISKEY—continued					
124	Wilson—That's All		90	Pt	\$1.00
105	Seagram's Five Crown		90	Qt	1.95
106	Seagram's Five Crown		90	Pt	1.45
121	Calvert's Reserve		90	Qt	2.40
122	Calvert's Reserve		90	Pt	1.25
107	Seagram's Seven Crown		90	Qt	2.50
108	Seagram's Seven Crown		90	Pt	1.20
BLEND OF STRAIGHT WHISKEYS—BOURBON					
159	Tom Hardy		90	Qt	1.65
160	Tom Hardy		90	Pt	.85
161	Mattingly & Moore (M & M)		90	Qt	1.70
162	Mattingly & Moore (M & M)		90	Pt	.90
171	Old Tucker		90	Qt	2.05
172	Old Tucker		90	Pt	1.05
153	Golden Wedding		90	Qt	2.30
154	Golden Wedding		90	Pt	1.20
155	Paul Jones		90	Qt	2.45
156	Paul Jones		90	Pt	1.25
157	Four Roses		90	Qt	2.85
158	Four Roses		90	Pt	1.45
BLEND OF STRAIGHT WHISKEYS—RYE					
167	Old Oscar Pepper (O O P)		90	Qt	2.00
168	Old Oscar Pepper (O O P)		90	Pt	1.05
165	Gibson's XXXX		90	Qt	2.30
166	Gibson's XXXX		90	Pt	1.20
169	Private Stock Rye—Park & Tilford		92	Qt	2.85
170	Private Stock Rye—Park & Tilford		92	Pt	1.45
BOTTLED IN BOND WHISKEY—BOURBON					
207	Kentucky Tavern		100	Qt	2.60
208	Kentucky Tavern		100	Pt	1.35
217	Bonded Belmont		100	Qt	2.65
218	Bonded Belmont		100	Pt	1.40
201	Old Grand Dad		100	Qt	3.10
202	Old Grand Dad		100	Pt	1.60
203	Old Forester		100	Qt	3.10
204	Old Forester		100	Pt	1.60
213	Old Taylor		100	Qt	3.10
214	Old Taylor		100	Pt	1.60
BOTTLED IN BOND WHISKEY—RYE					
219	Philadelphia Rye		100	Qt	2.40
220	Philadelphia Rye		100	Pt	1.25
215	G. & W. Bonded Stock		100	Qt	2.55
216	G. & W. Bonded Stock		100	Pt	1.35
209	Gibson's		100	Qt	2.65
210	Gibson's		100	Pt	1.35
205	Mount Vernon		100	Qt	2.75
206	Mount Vernon		100	Pt	1.45
211	Old Overholt		100	Qt	2.75
212	Old Overholt		100	Pt	1.45
CANADIAN WHISKEY					
187	Seagram's V. O	6 Yr	86.8	Qt	3.65
188	Seagram's V. O	6 Yr	86.8	Pt	1.85
183	Canadian Club	6 Yr	90.4	Qt	3.75
184	Canadian Club	6 Yr	90.4	Pt	1.90
185	Hiram Walker's Private Stock	10 Yr	90.4	Qt	4.35
186	Hiram Walker's Private Stock	10 Yr	90.4	Pt	2.25
180	Seagram's Pedigree	8 Yr	100	Pt	2.40
SCOTCH WHISKEY					
269	Harvey's Special Blended			45 Qt	2.75
265	King William IV			45 Qt	2.80
275	Auld Glen Rossie			45 Qt	3.00
299	Old Angus Scotch			45 Qt	3.20
267	Peter Dawson			45 Qt	3.25
295	Black & White			45 Qt	3.25
296	Black & White			15 Pt	1.75
279	White Horse			45 Qt	3.30
280	White Horse			15 Pt	1.80

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
SCOTCH WHISKEY—continued					
293	Johnny Walker Red Label			4½ Qt	\$3.30
297	Haig & Haig Five Star			4½ Qt	3.30
298	Haig & Haig Five Star			Pt	2.15
287	Sanderson's Vat 69			4½ Qt	3.35
289	Teacher's Highland Cream			4½ Qt	3.35
283	Dewar's White Label			4½ Qt	3.35
273	Martin's V. V. O.			4½ Qt	3.35
281	Ballentine's 10 Year Old			4½ Qt	3.65
271	Old Rarity 12 Year Old			4½ Qt	4.25
277	Haig & Haig Pinched Decanter			4½ Qt	4.50
291	Johnny Walker Black Label			4½ Qt	4.55
IRISH WHISKEY					
195	Bushmill's		90	4½ Qt	3.25
196	John Jameson's 3 Star		90	4½ Qt	3.40
IRISH AMERICAN WHISKEY					
197	William Jameson Irish American		86	4½ Qt	2.05
GIN					
305	American		85	Qt	1.05
306	American		85	Pt	.55
307	Cavalier		85	Qt	1.05
308	Cavalier		85	Pt	.55
319	Rhythm		85	Qt	1.10
320	Rhythm		85	Pt	.60
317	Polo Club		85	Qt	1.10
318	Polo Club		85	Pt	.60
309	Dixie Belle		90	Qt	1.25
310	Dixie Belle		90	Pt	.65
315	Hiram Walker's London Dry		90	Qt	1.35
316	Hiram Walker's London Dry		90	Pt	.75
313	Gilbey's London Dry		90	Qt	1.45
314	Gilbey's London Dry		90	Pt	.80
321	Milshire		90	Qt	1.50
322	Milshire		90	Pt	.80
301	Fleischmann's		90	Qt	1.55
302	Fleischmann's		90	Pt	.80
311	Old Mr. Boston		90	Qt	1.60
312	Old Mr. Boston		90	Pt	.85
303	Gordon's London Dry		94.4	Qt	1.65
304	Gordon's London Dry		94.4	Pt	.90
323	DeKuyper's Geneva		90	4½ Qt	1.90
SLOE GIN					
519	DeKuyper's		60	4½ Qt	1.25
520	DeKuyper's		60	Pt	.75
511	Graham (Jacquin's)		70	4½ Qt	1.30
512	Graham (Jacquin's)		70	Pt	.80
513	Old Mr. Boston		70	4½ Qt	1.55
514	Old Mr. Boston		70	Pt	1.00
FRUIT-FLAVORED GIN					
528	R & G (Orange)		80	Pt	.75
524	Jacquin's (Mint)		70	Pt	.80
526	Old Mr. Boston (Orange)		80	Pt	1.00
BRANDY—GRAPE					
353	Vai Brothers—Old Reserve	24 Mo	90	4½ Qt	1.50
354	Vai Brothers—Old Reserve	24 Mo	90	Pt	.95
351	Balboa		90	4½ Qt	1.55
352	Balboa		90	Pt	.95
356	A. R. Morrow Bottled in Bond	6 Yr	100	Pt	1.50
BRANDY—APPLE					
367	Old Delaware Gold Label	24 Mo	90	Qt	1.55
368	Old Delaware Gold Label	24 Mo	90	Pt	.80
373	Peak of Virginia	24 Mo	90	Qt	1.75
374	Peak of Virginia	24 Mo	90	Pt	.90
375	Little Brown Jug	24 Mo	100	Qt	1.80
376	Little Brown Jug	24 Mo	100	Pt	.90
371	Captain Apple Jack	24 Mo	90	Qt	1.85
372	Captain Apple Jack	24 Mo	90	Pt	.95
365	Laird's 3 Star	30 Mo	90	Qt	1.95
366	Laird's 3 Star	30 Mo	90	Pt	1.00

Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49,  
effective October 1, 1938—supersedes all previous price lists—Continued

Code	Brand	Age	Proof	Size	Retail price
BBANDY—APPLE—continued					
369	Hildick White Label .....	24 Mo.	100	Qt.	\$2.45
37	Hildick White Label .....	24 Mo.	100	Pt.	1.30
37	Bradybrook .....	12 Mo.	85	Pt.	.60
BRANDY—PEACH					
392	Old Delaware Gold Label .....	24 Mo.	90	Pt.	1.00
BRANDY—IMPORTED—COGNAC					
399	Martell .....		84	4% Qt.	3.50
397	Hennessy 3 Star .....		84	4% Qt.	3.50
395	Hennessy V. S. O. P. Over 20 Yrs. Old .....		80	4% Qt.	4.80
RUM—DOMESTIC					
403	Carloca—Gold Label .....		86	3% Qt.	1.55
404	Carloca—Gold Label .....		86	Pt.	.95
401	Felton's Pilgrim .....		90	Qt.	1.90
402	Felton's Pilgrim .....		90	Pt.	1.00
RUM—IMPORTED					
421	Don Q Gold Label—Puerto Rico .....		89	4% Qt.	1.60
423	Government House Gold Label—Virgin Island .....		90	4% Qt.	1.70
425	Bornn's Virgin Island Gold Label .....		90	4% Qt.	1.75
427	One Dagger—Jamaica .....		97	4% Qt.	2.95
431	Red Heart—Jamaica .....		90	4% Qt.	2.95
933	Bacardi White Label .....		89	4% Qt.	3.30
429	Bacardi Gold Label .....		89	4% Qt.	3.70
COCKTAILS					
450	Martini (Jacquin) .....		70	Pt.	.95
452	Side Car (Jacquin) .....		70	Pt.	.95
454	Manhattan (Jacquin) .....		70	Pt.	.95
456	Old Fashioned (Jacquin) .....		70	Pt.	1.00
461	Martini Dry Club (Heublein) .....		71	4% Qt.	1.70
463	Manhattan Club (Heublein) .....		65	4% Qt.	1.95
465	Old Fashioned Club (Heublein) .....		80	4% Qt.	1.95
457	Side Car Club (Heublein) .....		60	4% Qt.	1.95
459	Daiquiri Club (Rum) (Heublein) .....		70	4% Qt.	1.95
467	Gold Medal Mint Julep (R & G) .....		80	4% Qt.	1.95
CORDIALS—LIQUEURS—DOMESTIC					
Old Mr. Boston Line					
530	Apricot Nectar Liqueur .....		80	Pt.	1.00
532	Peach Nectar Liqueur .....		80	Pt.	1.00
534	Blackberry Nectar Liqueur .....		80	Pt.	1.00
535	Rock & Rye .....		80	Qt.	1.90
536	Rock & Rye .....		80	Pt.	1.00
Jacquin Line					
542	Apricot Nectar Liqueur .....		72	Pt.	.90
546	Peach Nectar Liqueur .....		72	Pt.	.90
548	Cherry Nectar Liqueur .....		72	Pt.	.90
550	Blackberry Nectar Liqueur .....		72	Pt.	.90
551	Rock & Rye .....		70	Qt.	1.70
552	Rock & Rye .....		70	Pt.	.90
540	Annisette .....		64	4% Pt.	.85
554	Jacquinto .....		80	4% Pt.	.90
556	Kummel .....		70	Pt.	.90
538	St. Dominic .....		80	4% Pt.	.95
Leroux Line					
558	Rock & Rye .....		70	Pt.	.90
566	Crene de Menthe Green .....		65	4% Pt.	.80
560	Apricot .....		70	4% Pt.	.85
562	Blackberry .....		70	4% Pt.	.85
564	Peach .....		70	4% Pt.	.85
568	Crene de Cacao .....		60	4% Pt.	.95
570	Triple Sec Curacao .....		80	4% Pt.	.95

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

Code	Brand	Age	Proof	Size	Retail price
CORDIALS—LIQUEURS—IMPORTED					
581	Cointreau.....		80	¾ Qt.....	\$4.15
583	Benedictine D. O. M.....		86	¾ Qt.....	4.65
584	Benedictine D. O. M.....		86	¾ Pt.....	2.50
585	Chartreuse—Yellow.....		86	¾ Qt.....	4.30
<i>E. Cusenier &amp; Company</i>					
586	Freezomint Creme de Menthe-Green.....		60	½ Bot.....	1.65
588	Freezomint Creme de Menthe-White.....		60	½ Bot.....	1.65
590	Blackberry Liqueur.....		60	½ Bot.....	1.65
592	Creme de Cacao.....		54	½ Bot.....	1.70
596	Extra See Orange Curacao.....		84	½ Bot.....	1.70
594	Apricot Liqueur.....		70	½ Bot.....	1.75
598	Peach Liqueur.....		80	½ Bot.....	1.75
PURE GRAIN ETHYL ALCOHOL					
997	1 Qt. Container—Prices furnished on request.				
999	1 Gal. Container—Prices furnished on request.				

## WINE

## DOMESTIC

Code	Brand		Size	Retail price
SPECIAL TYPE BRANDS				
648	Widmer's Hillside Fortified.....	M. S.	Pt.....	\$0.35
600	Thomas Jefferson Red.....	M. S.	¾ Qt.....	.50
647	Widmer's Hillside Fortified.....	M. S.	¾ Qt.....	.60
602	Virginia Dare Red.....	S.	¾ Qt.....	.60
603	Virginia Dare White.....	M. S.	¾ Qt.....	.60
604	Southern Hospitality Blackberry.....	S.	¾ Qt.....	.60
649	Widmer's Hillside Fortified.....	M. S.	Gal.....	1.95
PORT				
676	Widmer's Hillside.....	S.	Pt.....	.35
668	Vai Bros. Old Reserve.....	S.	¾ Qt.....	.40
674	Cerrito-Fruit Industries.....	S.	¾ Qt.....	.40
670	G & D Private Stock (White).....	S.	¾ Qt.....	.50
672	S-J (Shewan-Jones, Inc.).....	S.	¾ Qt.....	.55
675	Widmer's Hillside.....	S.	¾ Qt.....	.60
671	Old Constitution-Fruit Industries.....	S.	¾ Qt.....	.70
673	Taylor's.....	S.	¾ Qt.....	.75
678	Italian Swiss Colony.....	S.	¾ Qt.....	.75
680	Mt. Sinai (Kosher)-Fruit Ind.....	S.	Qt.....	.65
667	Vai Bros. Mira-Linda.....	S.	Gal.....	1.40
669	Vai Bros. Old Reserve.....	S.	Gal.....	1.60
679	Italian Swiss Colony.....	S.	Gal.....	1.65
677	Widmer's Hillside.....	S.	Gal.....	1.95
SHERRY				
715	Widmer's Hillside.....	M. D.	Pt.....	.35
708	Vai Bros. Old Reserve.....	M. S.	¾ Qt.....	.40
713	Cerrito-Fruit Industries.....	M. S.	¾ Qt.....	.40
711	S-J (Shewan-Jones, Inc.).....	M. S.	¾ Qt.....	.55
714	Widmer's Hillside.....	M. D.	¾ Qt.....	.60
710	Old Constitution-Fruit Ind.....	M. D.	¾ Qt.....	.70
712	Taylor's.....	M. D.	¾ Qt.....	.75
717	Italian Swiss Colony.....	M. S.	¾ Qt.....	.75
720	Mt. Sinai (Kosher)-Fruit Ind.....	M. S.	Qt.....	.55
709	Vai Bros. Mira-Linda.....	S.	Gal.....	1.40
707	Vai Bros. Old Reserve.....	M. S.	Gal.....	1.60
718	Italian Swiss Colony.....	M. S.	Gal.....	1.65
716	Widmer's Hillside.....	M. D.	Gal.....	1.95

Letters following brand names indicate the producer's classification, namely—

S—Sweet M. S.—Moderately Sweet  
D—Dry M. D.—Moderately Dry

Vintage years as shown may change without notice.

Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49,  
effective October 1, 1938—supersedes all previous price lists—Continued

## WINE—Continued

## DOMESTIC—Continued

Code	Brand	Size	Retail price
MUSCATEL			
738	Widmer's Hillside..... S.	Pt	\$0.35
735	Cerrito-Fruit Industries..... S.	4½ Qt.	.40
730	Vai Bros. Old Reserve..... S.	4½ Qt.	.40
734	S-J (Shewan-Jones, Inc.)..... S.	4½ Qt.	.55
737	Widmer's Hillside..... S.	4½ Qt.	.60
733	Old Constitution-Fruit Ind..... S.	4½ Qt.	.70
739	Mt. Sinai (Kosher)-Fruit Ind..... S.	Qt.	.55
728	Italian Swiss Colony..... M. S.	4½ Qt.	.75
732	Vai Bros. Mira-Linda..... S.	Gal.	1.40
736	Cerrito-Fruit Industries..... S.	Gal.	1.50
731	Vai Bros. Old Reserve..... S.	Gal.	1.60
729	Italian Swiss Colony..... S.	Gal.	1.65
TOKAY			
813	Widmer's Hillside (White)..... S.	Pt	.35
806	Vai Bros. Old Reserve..... S.	4½ Qt.	.40
811	Cerrito-Fruit Industries..... S.	4½ Qt.	.40
809	S-J (Shewan-Jones, Inc.)..... S.	4½ Qt.	.55
812	Widmer's Hillside (White)..... S.	4½ Qt.	.60
808	Old Constitution-Fruit Ind..... S.	4½ Qt.	.70
810	Taylor's..... M. S.	4½ Qt.	.75
807	Vai Bros. Mira-Linda..... S.	Gal.	1.40
805	Vai Bros. Old Reserve..... S.	Gal.	1.60
815	Italian Swiss Colony..... S.	Gal.	1.65
814	Widmer's Hillside (White)..... S.	Gal.	1.95
CLARET			
759	Vai Bros. Old Reserve..... D.	4½ Qt.	.35
763	Cerrito-Fruit Industries..... D.	4½ Qt.	.35
761	S-J (Shewan-Jones, Inc.)..... D.	4½ Qt.	.50
760	Old Constitution-Fruit Ind..... D.	4½ Qt.	.60
762	Taylor's..... D.	4½ Qt.	.75
758	Italian Swiss Colony..... D.	4½ Qt.	.70
765	Vintner's Superior..... D.	Bot.	.65
SAUTERNES			
783	Vai Bros. Old Reserve..... M. S.	4½ Qt.	.35
787	Cerrito-Fruit Industries..... M. S.	4½ Qt.	.35
785	S-J (Shewan-Jones, Inc.)..... M. D.	4½ Qt.	.50
788	Widmer's Hillside..... D.	4½ Qt.	.60
784	Old Constitution-Fruit Ind..... M. S.	4½ Qt.	.60
786	Taylor's..... M. D.	4½ Qt.	.75
782	Italian Swiss Colony..... M. D.	4½ Qt.	.75
790	Vintner's Superior..... M. S.	Bot.	.65
RHINE			
856	Vintner's Special..... D.	Bot.	.65
ZINFANDEL			
858	S-J (Shewan-Jones, Inc.)..... D.	4½ Qt.	.50
BURGUNDY			
841	Vai Bros. Old Reserve..... D.	4½ Qt.	.35
842	Old Constitution-Fruit Ind..... D.	4½ Qt.	.60
SPARKLING BURGUNDY			
840	Great Western..... M. S.	Bot.	2.00
SPARKLING WHITE			
846	Chateau Rheims..... M. D.	4½ Qt.	1.20
CHAMPAGNE			
900	Padre Sec..... M. D.	Bot.	1.50
899	Vintner's American..... M. D.	Bot.	1.80
895	Gold Seal 1934..... M. D.	Bot.	1.90
896	Gold Seal 1934..... M. D.	1½ Bot.	1.10
897	Great Western Special Reserve..... D.	4½ Qt.	2.00
898	Great Western Special Reserve..... D.	4½ Pt.	1.10
893	Cook's Imperial..... D.	Bot.	2.00
894	Cook's Imperial..... D.	½ Bot.	1.10
VERMOUTH			
974	Tribuno-Sweet.....	Qt.	.60
973	Tribuno-Dry.....	Qt.	.60
971	G. & D.-Dry.....	30 Oz.	.50
972	G. & D.-Sweet.....	30 Oz.	.50

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

## WINE—Continued

## IMPORTED

Code	Brand	Size	Retail price
PORT			
657	Doulbe Diamond (Silva & Cosens)..... M. S.	Bot.....	\$1.00
650	Cockburn White Label..... M. S.	Bot.....	1.55
651	Commodore-G & B..... S.	Bot.....	1.60
653	Cockburn Dry Club..... M. D.	Bot.....	2.15
SHERRY			
683	Duff Gordon Nina..... D.	½ Qt.....	1.15
685	Joseph C. Gordon's Special Table..... M. D.	Bot.....	1.35
686	Joseph C. Gordon's Amontillado..... D.	Bot.....	1.60
682	Duff Gordon White Label..... M. S.	Bot.....	1.60
684	Sandeman's 3 Star Brown..... M. S.	Bot.....	1.65
681	Garvey's Vino de Pasto..... D.	Bot.....	1.65
687	Duff Gordon Amontillado..... D.	Bot.....	2.30
CLARET			
743	Bordeaux Rogue Sup. 1928-Bellows..... D.	Bot.....	.90
741	St. Emilion B. & G..... D.	Bot.....	1.10
746	Chateau LaGrange 1928-Bellows..... D.	Bot.....	1.20
744	Chateau Pontet Canet..... D.	Bot.....	1.30
742	Teyssonniere Comte d' Eymet Rouge..... D.	Bot.....	1.65
SATURNES (WHITE BORDEAUX)			
771	Bordeaux Blanc Sup. 1928-Bellows..... M. D.	Bot.....	.90
767	Sauternes 1928-Sichel & Fils Frs..... M. D.	Bot.....	1.10
766	Graves Cruse et Fils Freres-1928..... D.	Bot.....	1.10
769	Haut Sauternes B. & G..... S.	Bot.....	1.50
768	Chateau Grillon 1934-Bellows..... M. D.	Bot.....	1.50
MADEIRA			
791	Old Malmsey..... M. S.	Bot.....	1.70
BURGUNDY RED			
828	Pommard 1929-Sichel & Fils Frs..... D.	Bot.....	1.30
826	Macon Cruse et Fils Freres-1928..... D.	Bot.....	1.30
829	Chambertin-Chauvenet..... D.	Bot.....	2.30
830	Chambertin-Chauvenet..... D.	½ Bot.....	1.15
BURGUNDY WHITE			
831	Chablis 1929-Sichel & Fils Frs..... D.	Bot.....	1.20
SPARKLING BURGUNDY			
832	Chauvenet Red Cap..... D.	Bot.....	2.80
RHINE			
849	Langenbach's Hock Superior-Bellows..... D.	Bot.....	1.30
848	Laubenheimer..... D.	Bot.....	1.40
MOSELLE			
861	Zeltinger 1935-H. Sichel Sohne..... D.	Bot.....	1.45
862	Berncastel 1933-H. Sichel Sohne..... M. D.	Bot.....	1.85
ITALIAN			
869	Martini & Rossi Chianti-Melini..... D.	Qt.....	.85
867	Marsala-Hopps & Sons..... D.	Bot.....	1.20
868	Chianti Antinori..... D.	Qt.....	1.25
CHAMPAGNE			
882	Moet & Chandon Extra Dry White Seal..... D.	Bot.....	2.90
883	Moet & Chandon Extra Dry White Seal..... D.	½ Bot.....	1.65
884	Lanson Extra Dry..... M. D.	Bot.....	3.35
881	Pommery & Greno Non Vin..... D.	½ Bot.....	1.80
878	G. H. Mumm Extra Dry..... M. D.	Bot.....	4.10
879	G. H. Mumm Extra Dry..... M. D.	½ Bot.....	2.25
DUBONNET			
948	Dubonnet.....	Bot.....	1.70

*Commonwealth of Virginia, Alcoholic Beverage Control Board, retail price list No. 49, effective October 1, 1938—supersedes all previous price lists—Continued*

## WINE—Continued

## IMPORTED—Continued

Code	Brand	Size	Retail Price
VERMOUTH			
952	Cinzano-French.....	Bot.....	\$1.00
953	Cinzano-Italian.....	Bot.....	1.05
949	Martini & Rossi Dry.....	Bot.....	1.15
951	Noilly Prat-French.....	Bot.....	1.15
950	Martini & Rossi-Italian.....	Bot.....	1.30

## MISCELLANEOUS

977	Orange Bitters.....(Jacquin)	8 Oz.....	\$0.65
976	Angostura Bitters.....	4 Oz.....	.80
980	Grenadine.....(Jacquin)	12 Oz.....	.45
978	Grenadine.....(Leroux)	4/5 Qt.....	.85
979	Grenadine.....(Leroux)	4/5 Pt.....	.50

## EXPRESS SHIPMENTS TO INDIVIDUALS

## HARD LIQUORS

According to the Act NOT MORE THAN one gallon of distilled spirits may be sold to one person at ONE TIME.

On receipt of certified check, cashier's check, or money order, covering amount of your purchase, shipment will be made promptly EXPRESS COLLECT.

The buyer must certify that he or she is entitled to make this purchase under the Virginia ABC Act. Orders from territories where the sale of alcoholic beverages other than wine or beer are prohibited must be made in accordance with special form, copy of which will be furnished on request.

## WINES

There are no restrictions as to quantity of wine shipments.

On receipt of certified check, cashier's check, or money order, covering amount of your purchase, shipment will be made promptly.

Prices shown are delivered prices on quantities of one case or more. Less than one case will be shipped EXPRESS COLLECT.

## SPECIAL ORDERS FOR WINE

We carry a representative list of Domestic and Foreign wines, but all wines on the American market are available to citizens of the State. Upon request, prices will be secured, and orders placed on receipt of the amount involved. No delivery charge will be made on such nonlisted items if delivery is accepted at your nearest ABC Store on regular weekly shipment. If shipped direct to customer, EXPRESS charges will be COLLECT. Special orders MUST BE IN CASE LOTS.

All wines, as well as liquors, must be purchased through this Board or its licensees within the State in accordance with the ABC Act.

ITEMS APPEARING ON THIS LIST MARKED THUS (X), ARE NOT STOCKED IN THIS STORE BUT CAN BE SUPPLIED PROMPTLY ON ORDER AT PRICES LISTED. SEE STORE MANAGER. ITEMS APPEARING ON THIS LIST MARKED THUS (O), HAVE BEEN DISCONTINUED

PRICES SUBJECT TO CHANGE WITHOUT NOTICE



The following letter and list submitted by National Distillers Products Corporation was introduced at hearings held May 10, 1939, and are printed herewith in connection with testimony on p. 2458 and 2465, *supra*.

## EXHIBIT No. 516

NATIONAL DISTILLERS PRODUCTS CORPORATION,  
New York, N. Y., April 6, 1939.

Mr. PHILLIP E. BUCK,  
General Counsel, Federal Alcohol Administration Division,  
Treasury Department, Washington, D. C.

DEAR MR. BUCK: In the course of my testimony before the Temporary National Economic Committee on Tuesday, March 14, 1929, I agreed to put into the record a list of all the subsidiaries of National Distillers Products Corporation as of 1924, 1933 and 1938, together with a statement of the brand names controlled by National Distillers Products Corporation as of those dates.

Accordingly, I enclose herewith a separate list of the subsidiaries of National Distillers Products Corporation as at December 31st in each of those years. There is indicated on these lists by an asterisk those companies which are primarily "brand name companies," that is, companies with a nominal capitalization. Many of the companies in the 1924 list had owned and operated distilleries prior to the enactment of the prohibition amendment, but in 1924 no distillery was permitted to be operated.

I have also included three lists showing the principal brands of domestic whiskeys owned by National Distillers Products Corporation in each of the years in question. I would like to point out that the increase in brands occurring between the years 1924 and 1933 accompanied the expansion of this company prior to repeal, and particularly arose out of its association with the American Medicinal Spirits Company.

The Committee also apparently was particularly interested in the number of brands acquired subsequent to repeal in December, 1933. We can find no record of any brands having been acquired since December, 1933. However, certain new brands were created by National Distillers Products Corporation and I have marked with an asterisk such brands appearing on the list for 1938.

Very truly yours,

SETON PORTER,  
President.

## SUBSIDIARIES AS AT DECEMBER 31, 1924

Allen Bradley Company *	Old Time Molasses Company†
A. Mayfield & Co.*	Sam Clay Distilling Company*
Atlas Distilling Company†	S. P. Lancaster Co.*
Belle of Nelson Distillery Company*	Steamship Julius Kessler Corporation†
Boldrick Callaghan Co.*	Stoll & Co., Inc.*
Bond & Lillard*	Sugar Products Co.†
Coon Hollow Distillery Company*	T. B. Ripy Co.*
E. J. Curley*	The A. Kellar Company*
E. L. Miles & Company*	The Anderson Distilling Company*
G. G. White Co.*	The Distilling Company of America†
Henry H. Shufeldt & Co.	The Hannis Distilling Company*
J. & J. M. Saffell Co.*	The Nelson Distilling Company*
J. N. Blakemore Co.*	The New Hope Distillery Company*
John Cochran & Co.*	Trans Oceanic Commercial Corporation†
Julius Kessler & Co.†	U. S. Food Products Car Line Corporation†
Kentucky Alcohol Corporation†	U. S. Food Products Corporation (of Illinois)†
Kentucky Distilleries and Warehouse Co.†	William Tarr Company*
Liberty Yeast Corporation†	
Mellwood Distillery Company*	

\*Brand name companies, dissolved or discontinued.

† Dissolved or discontinued.

## SUBSIDIARIES AS AT DECEMBER 31, 1933

Alex D. Shaw & Co., Inc.	The Bond & Lillard Distillery Company*
A. Overholt & Co., Inc.	The Cedar Brook Distillery Company*
Carthage Distilling Corp.	The Chicken Cock Distillery Company*
Crown Fruit and Extract Company.	The Federal Distillery Company†*
Henry H. Shufeldt & Co.	The Green River Distillery Company†*
Large Distilling Company.	The Gwynnbrook Distillery Company*
Medicinal Holding Corp.†	The Hannis Distillery Company*
Medicinal Products Corp.†	The Hermitage Distillery Company*
National Distillers Corporation of New England	The Hill & Hill Distillery Company*
National Straight Whiskey Distributing Company, Inc.†	The Medical Arts Products Company*
Penn-Maryland Company, Inc.†	The Mellwood Distillery Company*
Penn-Maryland Corp.†	The Mt. Vernon Distillery Company*
Penn-Maryland, Inc.†	The Old Crow Distillery Company*
Security Warehouse Company, Inc.†	The Old Grand Dad Distillery Company*
Sunny Brook Distillery Co.*	The Old McBrayer Distillery Company*
The American Medicinal Spirits Company†	The Old Taylor Distillery Company*
The American Medicinal Spirits Corporation†	The Pebbleford Distillery Company†*
The Black Gold Distillery Company*	The Rewco Distillery Company*
The Blue Grass Distillery Company*	The Spring Garden Distillery Company*

## SUBSIDIARIES AS AT DECEMBER 31, 1938

Alex D. Shaw & Co., Inc.	The Hermitage Distillery Company*
A. Overholt & Co., Inc.	The Hill & Hill Distillery Company*
Crown Fruit and Extract Company, Inc.	The Medical Arts Products Company*†
Henry H. Shufeldt & Co.	The Mellwood Distillery Company*
Large Distilling Company	The Mt. Vernon Distillery Company*
National Distillers Corporation of New England	The Old Crow Distillery Company*
Sunny Brook Distillery Co.*	The Old Grand-Dad Distillery Company*
The Black Gold Distillery Company*	The Old McBrayer Distillery Company*
The Blue Grass Distillery Company*	The Old Taylor Distillery Company*
The Bond & Lillard Distillery Company*	The Rewco Distillery Company*
The Cedar Brook Distillery Company*	The Spring Garden Distillery Company*
The Chicken Cock Distillery Company*	Penn-Maryland Corporation
The Crab Orchard Distillery Company*	W. A. Gaines & Co.
The Farmdale Distillery Company *	W. & A. Gilbey, Ltd.
The Gwynnbrook Distillery Company*†	John deKuyper & Son, Incorporated
The Hannis Distillery Company*	Chickasaw Wood Products Company
	Train & McIntyre Limited

## PRINCIPAL BRANDS OF DOMESTIC WHISKEYS OWNED BY NATIONAL DISTILLERS PRODUCTS CORPORATION AND ITS SUBSIDIARIES IN 1924

Allen Bradley	Jefferson	Nelson
Belle of Marion	King of Kentucky	J. G. Roach
Bond & Lillard	Old Log Cabin	G. R. Sharpe
Cedar Brook	Old Ripy	Shenandoah
Elk Run	Mellwood	Sweetwood
Hannis Mills	Mount Vernon	U. S. Club
Hendrik Hudson		

\*Brand name companies.

†Subsequently discontinued.

PRINCIPAL BRANDS OF DOMESTIC WHISKEYS OWNED BY NATIONAL DISTILLERS  
PRODUCTS CORPORATION AND ITS SUBSIDIARIES IN 1933

Allen Braley, A. M. S., Annapolis, Atherton.  
 Babbling Brook, Belle of Marion, Belle of Nelson, Black Gold, Blue Grass,  
 Bond & Lillard, Boone's Knoll, Bourbon de Luxe.  
 Cantan, Cedar Brook, Cedar Run, Chicken Cock, Commonwealth, Coon  
 Hollow, Crab Orchard.  
 Dorchester, Drink a Little Large, Eastbourne, Edgewater, Edgewood, Elk  
 Run, Everglade.  
 Farmdale, Fisher, Franklin.  
 Garland, Gladstone, Golden Premium, Gold Star, Great Lakes.  
 Hannis Mills, Hendrik Hudson, Hill & Hill, Honeymoon.  
 Jefferson, Jersey Cream, Jersey Jack, Jockey Club.  
 Kentucky Climax, Kentucky Club, Kentucky Criterion, Kentucky Sunshine,  
 Knob Creek.  
 Lackawanna, S. P. Lancaster, Large, Lexington Club.  
 Mayfield, Medical Arts, Mellwood, Monarch, Mount Vernon, Mutual, Nahum  
 Chapin Rum, Nelson, New Hope.  
 Old Crow, Old Darling, Old Delaware, Old Farm, Old Grand-Dad, Old Hermitage,  
 Old Hospitality, Old Kentucky Colonel, Old Log Cabin, Old Madison Club,  
 Old McBrayer, Old Overholt, Old Prentice, Old Puritan, Old W. S. Stone, Old  
 Tarr, Old Taylor.  
 Paragon, Park Hill, Peerless, Penwick, Pontiac, Picture of a Star within a Star.  
 Ramona, Rewco, Richwood, J. G. Roach, Rossville, Roxbury, Royal Arms.  
 G. R. Sharpe, Shenandoah, Since 1788, W. B. Saffell, Sovereign, Spring Garden,  
 Spring Hill, Sunnybrook, Sweetwood.  
 E. H. Taylor, Jr. & Sons, Tea Kettle, Tip Top.  
 U. S. Club.  
 Van Hook.  
 Wathen Distillers Since 1788, R. E. Wathen & Company, J. T. Welch, West-  
 brook, Windsor.  
 Special Old Reserve.

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PRINCIPAL BRANDS OF DOMESTIC WHISKEYS OWNED BY NATIONAL DISTILLERS  
PRODUCTS CORPORATION AND ITS SUBSIDIARIES IN 1938

Allen Bradley, A. M. S., Annapolis, Atherton.  
 Babbling Brook, Belle of Marion, Belle of Nelson, Black Gold, Blue Grass,  
 Bond & Lillard, Boone's Knoll, Bourbon de Luxe, \*Brigadier.  
 Cantan, Cedar Brook, Cedar Run, Chicken Cock, Commonwealth, Coon Hol-  
 low, Crab Orchard, \*Dividend No. 2, Dorchester, Drink a Little Large.  
 \*Eagle, Eastbourne, Edgewater, Edgewood, Elk Run, Everglade.  
 Farmdale, Fisher, Franklin.  
 Garland, Gladstone, Golden Premium, Gold Star, Great Lakes.  
 Hannis Mills, Hendrik Hudson, Hill & Hill, Honeymoon.  
 Jefferson, Jersey Cream, Jersey Jack, Jockey Club.  
 Kentucky Climax, Kentucky Club, Kentucky Criterion, Kentucky Sunshine,  
 Knob Creek.  
 Lackawanna, S. P. Lancaster, Large, Lexington Club.  
 Mayfield, Medical Arts, Mellwood, Monarch, Mount Vernon, Mutual, Nahum  
 Chapin Rum, \*National's Eagle, Nelson, New Hope.  
 Old Crow, Old Darling, Old Delaware, Old Farm, Old Grand-Dad, Old Hermitage,  
 Old Hospitality, Old Kentucky Colonel, Old Log Cabin, Old Madison Club,  
 Old McBrayer, Old Overholt, Old Prentice, Old Puritan, Old W. S. Stone, Old  
 Tarr, Old Taylor, \*Old Warrior.  
 Paragon, Park Hill, Peerless, \*Penn-Maryland Bar Special, \*Penn-Maryland  
 De Luxe, \*Penn-Maryland Private Stock, \*Penn-Maryland Regal, Penwick,  
 Pontiac, Picture of a Star within a Star.  
 Ramona, Rewco, Richwood, J. G. Roach, Rossville, Roxbury, Royal Arms.  
 W. B. Saffell, G. R. Sharpe, Shenandoah, Since 1788, Sovereign, Spring Garden,  
 Spring Hill, Sunnybrook, Sweetwood.

E. H. Taylor, Jr. & Sons, Tea Kettle, Tip Top, \*Town Tavern.

U. S. Club.

Van Hook.

Wathen Distillers Since 1788, R. E. Wathen & Company, J. T. Welch, Westbrook, Windsor.

Special Old Reserve.

Note: All the foregoing brands were owned by National Distillers Products Corporation in 1933 with the exception of those marked (\*). These brands marked (\*) were created by National Distillers Products Corporation or its subsidiaries and were not acquired from outside interests.

The following tabulation, introduced during hearings held June 7, 1939, is included at this point in connection with testimony on p. 2562, supra.

### EXHIBIT No. 678

## CALVERT DISTILLERS CORPORATION

### SALES OF DOMESTIC WHISKY BY BRANDS NATIONALLY

Brands	Fiscal year ending 1937 (July 31)	Fiscal year ending 1938 (July 31)
Calvert Reserve Blended Whisky.....	\$7,880,686.19	\$9,228,245.49
Calvert Special Blended Whisky.....	17,449,492.44	21,353,746.40
Old Drum Blended Whisky.....	5,200,805.02	5,193,332.32
Private Stock Blended Whisky.....	1,824,934.83	1,621,990.24
Private and Other Labels.....	164,806.98	31,696.60
Old Durham Brand Blended Whisky.....	88,235.14	7,755.40
Durham Bar Special Blended Whisky.....	39,134.25	26,040.25
Kentucky Pride Kentucky Straight Bourbon Whisky.....	714,319.32	418,957.38
Maryland Club Maryland Straight Rye Whisky.....	6,913.50	43,678.62
Little Straight Rye Whisky.....	6,355.50	-----
Virginia Club.....	404.30	-----
Calvert Club Maryland Straight Rye Whisky.....	-----	133,861.74

The following list is included at this point in connection with testimony on p. 2655, supra.

### EXHIBIT No. 1172

*Active and associate members of Distilled Spirits Institute, Inc., July 1, 1939*

### ACTIVE MEMBERS

	(1)		(1)
I. Strouse, Vice President, The Baltimore Pure Rye Distilling Co., Dundalk, Maryland.....	W	Vioanni Vai, Cucamonga Valley Wine Company, 1101 East A Street, Ontario, California.....	GB
Owsley Brown, President, Brown-Forman Distillery Company, 1908 Howard Street, Louisville, Kentucky.....	W	Herbert L. Felton, President, Felton & Sons, Inc., 516 East Second Street, South Boston, Mass.....	R
Arthur E. Blankenship, Asst. Treas., A. & G. J. Caldwell, Inc., 126 Merrimac Street, Newburyport, Mass.....	R	Warren Oakes, Vice President, The Fleischmann Distilling Corp., 595 Madison Avenue, New York City.....	G-A
Antonio Moramarco, California Mission Vintage Co., 330 North Mission Road, Los Angeles, California.....	GB	James F. Brownlee, President, Frankfurt Distilleries, Inc., Columbia Building, Louisville, Kentucky.....	W-A-G
F. Cribari, Vice President, B. Cribari & Sons, Inc., Madrone, Santa Clara County, California.....	GB	Frank B. Thompson, President, Glenmore Distilleries Company, P. O. Box 900, Louisville, Kentucky.....	W

### 1 LEGEND

W—Whiskey G—Gln AB—Apple Brandy

A—Alcohol R—Rum GB—Grape Brandy

Whs—Warehouse

Active and associate members of Distilled Spirits Institute, Inc., July 1, 1939—Con.

## ACTIVE MEMBERS—Continued

	(1)		(1)
William A. Golden, President, The Golden-Rossell Company, 580 Fifth Avenue, New York City.....	AB	Charles John Demateis, Secy.-Treas., San Gabriel Vineyard Company, 836 Putney Avenue, San Gabriel, California.....	GB
E. R. Pooley, Sec'y-Treas., Hood River Distillers, Inc., State Street, Hood River, Oregon.....	AB	Lester E. Jacobi, President, Schenley Distillers Corporation, Empire State Building, New York City.....	W-G-A-R
J. P. Carter, President, Hunter Baltimore Rye Distillery, Inc., 1900 East Fort Avenue, Baltimore, Maryland.....	W	(Herbert Hoffheimer, President, The New England Distilling Co., Inc., 115 Pike Street, Covington, Kentucky.)	
John E. Laird, President, Laird & Company, Scobeyville, New Jersey.....	AB	F. R. Schwengel, Vice President, Seagram Distillers Corporation, Chrysler Building, New York City.....	W-G-A
S. Loewenthal, President, The Siegfried Loewenthal Company, 101 High Street, Cleveland, Ohio.....	W	(W. W. Wachtel, President, Calvert Distillers Corporation, Chrysler Building, New York City.)	
Alvin G. Mayer, Secretary, Lord Stirling Distilleries, Inc., Pittstown, New Jersey.....	AB	Lee Jones, President, Shewan-Jones, Inc., 85 Second Street, San Francisco, California.....	GB
L. M. Martini, L. M. Martini Grape Products, P. O. Box #158, Kingsburg, California.....	GB	Mr. Powell Williams, Speas Manufacturing Company, 2400 Nicholson Avenue, Kansas City, Missouri.....	AB
Frank Mayr, Jr., Chairman of the Board, Merchants Distilling Corp., 1535 South First Street, Terre Haute, Indiana.....	W-A-G	B. H. Burnstein, President, Virginia Distillery Corp., P. O. Box 775, Richmond, Virginia.....	W
James S. McKenna, President, H. McKenna, Inc., Fairfield, Kentucky.....	W	H. R. Walton, Vice President, Hiram Waker-Gooderham & Worts, Ltd., Walkerville, Ontario, Canada.....	W-A-G
M. J. MacNamara, Vice President, National Distillers Products Corp., 120 Broadway, New York City.....	W-A-G	Frank L. Wight, Vice President, The Frank L. Wight Distilling Co., Gillet Building, Baltimore, Maryland.....	W
George A. Follett, President, Old Bedford Rum Distillery, Inc., 24 Water Street, Wakefield, Mass.....	R	D. Garlock, Manager, Wilson Distilling Company, Inc., Bristol, Pennsylvania.....	W
Old Mountaineer Distilling Co., c/o Philip Blum & Co., Inc., 501-507 West Chicago Avenue, Chicago, Illinois.....	W		
M. R. Weiner, President, Pennsylvania Distilling Co., Inc., 12 South 12th Street, Philadelphia, Penn.....	W		

## ASSOCIATE MEMBERS

James C. Brown, Manager, Camden Warehouses, Baltimore, Maryland.....	Whs	Louisville Public Warehouse Co., 131 East Main Street, Louisville, Kentucky.....	Whs
Harry Foster, General Manager, Cincinnati Terminal Warehouse, Inc., 49 Central Avenue, Cincinnati, Ohio.....	Whs	H. F. Hiller, President, San Francisco Warehouse Company, 625 Third Street, San Francisco, California.....	Whs
Morris M. Cook, Treasurer, Cook-McFarland Company, 905-27 Mateo Street, Los Angeles, California.....	Whs	Julian Simon, President, Security Warehouse Company, Inc., 4116 North Union Blvd., St. Louis, Missouri.....	Whs
Jos. C. Trainer, President, J. A. Dougherty's Sons, Inc., 1135 North Front Street, Philadelphia, Penn.....	Whs	Louis Mann, President, The Sherwood Distilling & Distributing Company, 212 E. Lombard Street, Baltimore, Maryland.....	W
C. Hildreth, Secretary, Lawrence Warehouse Company, 37 Drumm Street, San Francisco, California.....	Whs	H. A. Page, Vice President, South End Warehouse Company, 631 Second Street, San Francisco, California.....	Whs
Albert B. Drake, President, Lehigh Warehouse & Transportation Co., 98-108 Frelinghuysen Avenue, Newark, N. J.....	Whs	Wakem & McLaughlin, Inc., 225-235 East Illinois Street, Chicago, Illinois.....	Whs
Jack Marshall, Asst. Mgr., Los Angeles Brewing Company, 1920 North Main Street, Los Angeles, California.....	Whs		

## LEGEND

W—Whiskey G—Gin AB—Apple Brandy

A—Alcohol R—Rum GB—Grape Brandy

Whs—Warehouse

The following letter is included at this point in connection with testimony on p. 2595.

NATIONAL DISTILLERS PRODUCTS CORPORATION

120 Broadway

NEW YORK. November 1, 1939.

Director of public relations.

Mr. WILLIAM A. HEFLIN,  
*Temporary National Economic Committee,*  
*Room 79, The Capitol, Washington, D. C.*

DEAR SIR: In reply to your letter of September 11, 1939, addressed to our Mr. T. W. Balfe, the additional information which Mr. Buck and Vice Chairman Summers requested Mr. Balfe to obtain regarding the item of notes and accounts receivable in the consolidated financial statements of National Distillers Products Corporation and wholly owned subsidiaries as at December 31, 1938 (p. 2595 of the printed record) is as follows:

Notes receivable.....	\$7, 514, 587. 86
Trade acceptances.....	5, 037. 37
Accounts receivable:	
Trade.....	12, 200, 291. 58
Other.....	228, 627. 71
Total.....	19, 948, 544. 52

Yours very truly,

ROBERT BARRY.

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